

14 JANUARY 1947

I N D E X  
of  
WITNESSES

Prosecution's Witnesses

	<u>Page</u>
McDougall, John Alexander	15109
Direct by Commander Cole	15109
Cross by Mr. Logan	15130
(Witness excused)	15139
Bogue, Douglas William, Gunnery Sergeant, U.S. Marine Corps, Tientsin, China	15204
Direct by Captain Robinson	15204

I N D E X  
of  
EXHIBITS

<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
8389	2087		Affidavit of Charles E. Pyle		15140 15141
8390	2088		Affidavit of Calvin Butler		15140 15145
8393	2089		Affidavit of Charles H. Rhodes		15140 15148
8394	2090		Affidavit of James D. Pearson		15140 15150
8485	2091		Affidavit of James J. Robinson		15140

# INDEX

Of

EXHIBITS

(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
8400	2092		Protest transmitted by the Swiss Minister from the British Government to the Accused SHIGEMITSU, Japanese Foreign Minister, dated 5 June 1944		15153
8397	2093		Note from the Swiss Legation to the Japanese Foreign Minister, the Accused SHIGEMITSU, dated 20 July 1944		15156
8380	2094		Statement of Survivor R. J. Weeks, Master SS Daisy Moller	15157 15158	
8381	2095		Extract from the official log of the SS British Chivalry sunk 22 February 1944	15157 15159	
8382	2096		Statement of Survivor P. H. Rees, Chief Engineer SS M. V. Sutley	15157 15159	
8383	2097		Report of Attack on SS Ascot sunk 29 February 1944	15157 15163	
8379	2098		Statement of Survivor S. K. Chu, 2nd Mate SS Nancy Moller sunk 18 March 1944	15157 15168	
8388	2099		Statement of Survivor F. deJong, Chief Officer SS Tjisalak sunk 26 March 1944	15157 15169	
8472	2100		Chart of the sinkings	15157	



# INDEX

of

EXHIBITS

(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
8395	2101		Note from the Swiss Legation to the Japanese Foreign Minister, dated 16 September 1944		15175
8416	2102		Note from the Swiss Minister to the Accused SHIGEMITSU, Japanese Minister of Foreign Affairs, dated 28 November 1944		15177
8410	2103		Letter from the Swiss Minister, transmitting from the Government of the United Kingdom a communication to the Japanese Foreign Minister, dated 19 May 1945		15178
8481	2104		Official Report of the Killing of Survivors of the British SS Behar, sworn to on 30 May 1946		15182
548	2105		Top Secret Japanese Naval Order for Submarine Operations in the Indian Ocean		15184
8479	2106		Interrogation of General Hiroshi OSHIMA		15186
3454	2107		Protest and Note with a Declaration of delivery by the Swiss Legation to the Defendant TOGO, dated 3 and 4 June 1945		15200
8457	2108		Note from the Swiss Legation to the Japanese Foreign Minister, dated 7 June 1945		15202

1 Tuesday, 14 January 1947

2 - - -

3  
4 INTERNATIONAL MILITARY TRIBUNAL  
5 FOR THE FAR EAST  
6 Court House of the Tribunal  
7 War Ministry Building  
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,  
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before with  
14 the exception of: HONORABLE JUSTICE JU-AO MEI,  
15 Member from the Republic of China, not sitting.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 - - -

19 (English to Japanese and Japanese  
20 to English interpretation was made by the  
21 Language Section, IMTFE.)  
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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present  
4 except OKAWA, ARAKI, MATSUI, and TOGO who are  
5 represented by their counsel. We have a certificate  
6 from the prison surgeon of Sugamo Prison stating  
7 that ARAKI, MATSUI, and TOGO are unable to attend  
8 the trial today on account of illness.

9 Captain Robinson.

10 CAPTAIN ROBINSON: Mr. President, and Members  
11 of the Tribunal, if it please the Court, Commander  
12 Cole will examine the next witness.

13 THE PRESIDENT: Commander Cole.

14 COMMANDER COLE: If it please the Tribunal,  
15 may the witness John Alexander McDougall be called  
16 to the witness stand.  
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21  
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25

McDOUGALL

DIRECT

1 J O H N A L E X A N D E R M c D O U G A L L, a  
2 witness called in behalf of the prosecution,  
3 being first duly sworn, testified as follows:

## DIRECT EXAMINATION

BY COMMANDER COLE:

6 Q Will you state your full name, present home  
7 address, and occupation?

8 A John Alexander McDougall, 2400 Haste Street,  
9 Berkley, California. I am employed by a printing  
10 firm in Oakland, California.

11 Q How old are you?

12 A Twenty-one.

13 Q Were you a prisoner of the Japanese?

14 A Yes.

15 Q On what date?

16 A July 2, 1944.

17 Q What was your occupation on July 2, 1944?

18 A I was an Able Bodied Seaman in the Merchant  
19 Marine.

20 Q What ship were you signed on on that date?

21 A The S.S. Jean Nicolet.

22 Q From what country was this ship?

23 A She left -- loaded in San Pedro, California,  
24 left for Fremantle with 37 days to Fremantle.

25 Q What was the port of destination of the



McDOUGALL

DIRECT

1 Jean Nicolet?

2 A Calcutta, India, and stop for orders in  
3 Ceylon.

4 Q Where was the Jean Nicolet on July 2, 1944?

5 A We were ten days out of Fremantle,  
6 Australia, headed 357, three days south of Ceylon,  
7 Columbia.

8 Q How many passengers and crew were on board  
9 the Jean Nicolet on that date?

10 A There was exactly a hundred all told.

11 Q Will you describe the circumstances under  
12 which you were made a prisoner by the Japanese?

13 A Well, I was out on deck, seven o'clock in  
14 the evening. I had my cot out there. I was going  
15 inside to get a pillow. I stopped by the mess hall,  
16 looked in at a poker game. It was seven. I left the  
17 mess hall about six minutes after seven and walked  
18 around to my forecastle and was just stepping in  
19 when the first torpedo struck. The first torpedo  
20 hit between the 2 and 3 hold. The torpedo struck,  
21 I was thrown back against the bulkhead and I hung  
22 onto a rail to stand up.

23 The ship took a lurch to port and listed  
24 back to starboard. General quarters was ringing so  
25 I turned around and ran down the companion way, threw

McDOUGALL

DIRECT

1 open the blackout door to the boat deck, and crossed  
2 over to my boat station on the forward port. I went  
3 to my boat station which was the forward boat on the  
4 port side, No. 2. My job was to tend the forward  
5 fall on boat 2. We got things ready and the captain  
6 came out to the wing of the bridge. When the torpedo  
7 struck it blew No. 3 hatch covers off and a fire started.  
8 Just then the second torpedo struck on No. 5 hold,  
9 starboard side. So the captain gave orders to  
10 abandon ship.

11 We started lowering away. We lowered away  
12 and all the boats got away safely, passengers and  
13 crew. There was one broken arm getting off the ship.  
14 An army lieutenant fell in one of the boats and broke  
15 his arm.

16 So, after the boats left, it left six of  
17 us on deck: George Kenmore Hess A.B., Lieutenant  
18 Deal, Naval Gunnery Officer, two Navy gunners, and  
19 the Captain and myself. Hess and I went below to  
20 our forecastle which was full of water. I got a  
21 pair of pants, a shirt, and my life jacket. Hess  
22 took a knife, two knives, and I also secured a knife.

23 We went back on deck and the six of us  
24 gathered on the forward part of the boat deck. We  
25 decided to take No. 2 raft forward. I went down and



McDOUGALL

DIRECT

1 checked the sea painter and let the raft go. I was  
2 the first one on the raft, the two navy gunners were  
3 second and third, and then the captain and Lieutenant  
4 Deal decided to check the ship again to see if there  
5 was anyone left on board. After they came back Hess  
6 helped the lieutenant get on the raft, then he came  
7 down, and the captain was the last to leave the ship.  
8 When we were all on board we cut the sea painter and  
9 drifted astern.

10 We sighted a man in the water and we picked  
11 him up. Then we sighted another raft with one man  
12 on board. We rowed over and lashed the two rafts  
13 together. Shortly after this a motor launch came up,  
14 No. 4 boat, with the chief mate in charge. The  
15 captain went on board and took command. He thought  
16 he had seen a light on the ship and he wanted to go  
17 back and check again to see if anyone was on board.  
18 The mate told us to stay around until morning when we  
19 could all get together. He gave us the course by the  
20 stars to the closest land just in case.

21 The motor launch started to return to the  
22 ship. When she was about half way there the sub  
23 surfaced on the starboard side and was pointing  
24 their deck gun at the ship. They cut the motor in  
25 the life boat for fear the sub would pick them up and

McDOUGALL

DIRECT

1 they rowed back to where we were. They pulled along-  
2 side our raft and we held onto each other and were  
3 talking, and shortly after that the sub came up on  
4 the port side and started cruising over towards us.

5 As soon as we spotted the submarine, the  
6 chief mate told the fellows to throw away their white  
7 hats and skivvy shirts and lay down in the life boat  
8 and raft. Well, we let go, we layed down in the raft  
9 and the boat drifted away. And the sub came right up  
10 and spotted the boat lights on them and they hollered,  
11 "What ship; what ship?" The chief mate stood up in  
12 the life boat and hollered back, "SS Jean Nicolet."  
13 I don't think they could hear the chief mate because  
14 they got kind of mad then. They told them to pull  
15 alongside or else they would shoot them and they said,  
16 "No monkey business."

17 When they pulled alongside of our life raft  
18 we got off the raft and got on the opposite side of  
19 the raft and got in the water. Well, when the boat  
20 pulled alongside, one man jumped out of the boat and  
21 the chief mate told him to get back in. He was a  
22 messman, William Musser, seventeen years old. The  
23 men in the boat said the Japanese told him to come on  
24 board first and they lashed his hands -- didn't take  
25 his life jacket off -- they lashed his hands behind



McDOUGALL

DIRECT

1 his back, took him to the opposite side of the sub-  
2 marine, and shot him in the back of the head three  
3 times.

4 THE PRESIDENT: Witness, will you speak slowly,  
5 please. We are having some difficulty in hearing you,  
6 or rather in understanding you. We can hear you all  
7 right but we don't quite understand what you are say-  
8 ing.

9 A (Continuing) We couldn't see what was  
10 happening but, as I said, we were behind the life  
11 raft, but the next thing we heard was machine gun fire.  
12 I looked around the end of the raft and the sub went  
13 astern, swung around, and came around toward us. So  
14 as soon as they put a light on us we got back on board  
15 the raft and when they pulled alongside they threw a  
16 line to us. Hess was the first man on board and I  
17 was second. They would only let us come on board one  
18 at a time. That was midship by the conning tower on  
19 the port side. They took me on board; they pulled  
20 me underneath this rail there. I stood up and put  
21 my hands up and they told me to take off my life  
22 jacket. I had tied my jacket in slip knots. I pulled  
23 the bottom undone and the top one had slipped into a  
24 knot and I couldn't see how to get it undone. One of  
25 the Japanese took a knife and swung and cut it right  
off me, cut this line in two.

McDOUGALL

DIRECT

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1           A   (Continuing) I threw my jacket down on  
2 deck and I had my hands up and one of the Japanese  
3 spotted my watch. He pulled my hand down, tore my  
4 watch off my hand; then he saw my ring on my left  
5 hand. He pulled that down and tried to take the  
6 ring off but it was pretty tight. It wouldn't come  
7 off. He took his knife out and I guess he was going  
8 to cut my finger off. I told him to wait a second;  
9 I took it off and gave him my ring. Then they searched  
10 my pockets and they took my knife and they took my  
11 hands and lashed them behind me. Then they led me  
12 from the port side in front of the conning tower  
13 over the starboard side and up the starboard side  
14 of the gun and made me sit down on the deck with my--

15           Q   Were all the survivors of the Jean Nicolet  
16 taken on board the submarine?

17           A   It was all but three.

18           Q   What happened to those three?

19           A   They were trying to swim away in the shadows.  
20 The Japanese spotted them and machine gunned them,  
21 but they didn't hit any of them. Later they made  
22 one of the rafts that wasn't sunk. After they led  
23 us forward they made us sit with our legs crossed and  
24 our chins on our chest. They told us to sit still  
25 and to keep our chins on our chest. They said if we



McDOUGALL

DIRECT

1 moved it would be too bad.

2 Hess was sitting on one side of me and  
3 just forward of me was the captain and chief mate.  
4 After they had taken us all on board they machine  
5 gunned our raft and sunk it. Then they got under way  
6 and started picking up the rest of the survivors.  
7 After they would take all the men out of the boat  
8 they would machine gun the boat or raft and sink  
9 it.

10 Q Will you describe the submarine which  
11 torpedoed the S.S. Jean Nicolet?

12 A It was easily 250 feet long, with double  
13 barreled deck guns, five inch, had two or three  
14 20 millimeters on the conning tower.

15 THE PRESIDENT: Is there some good reason  
16 for describing it in detail? It had a Japanese crew.

17 COMMANDER COLE: If it please the Tribunal,  
18 there was one point I wished to bring out about the  
19 submarine.

20 A (Continued) It had a long raft on the fan-  
21 tail and did an easy twenty knots on the surface.

22 Q What was the nationality of this submarine?

23 A It was Japanese. We were then cruising around  
24 the surface. They took us back to the ship on the  
25 starboard side about, oh, half a mile or so away.

McDOUGALL

DIRECT

1 The Japanese officer then came out on deck. He had  
2 a sword. He was swinging it over our heads and the  
3 gun crew showed up and they broke the gun out and he  
4 was giving orders to load and fire, I guess. I  
5 couldn't understand him. He then made us watch our  
6 ship. They told us to look at it and they fired  
7 three rounds of ammunition into it.

8 Q Did any of the Japanese seamen say anything  
9 to you at this time?

10 A Well, I was whispering to my friend Hess.  
11 One came up behind me and started beating me over  
12 the head with a pipe, and he beat the rest of the  
13 fellows close by me because I was talking. He told  
14 me to shut up and he sat down on some bitts by us.  
15 He told us we were fools for letting President  
16 Roosevelt lead us into war. None of us answered  
17 him and then he said that we shouldn't have come  
18 to the Indian Ocean because they sank every ship  
19 coming through there. He also told us that we had  
20 a nice battle and then a little while later the  
21 captain was talking to the chief mate. He said he  
22 thought he would give himself up. They had been  
23 asking for him and the radio operators; and, hearsay,  
24 they also said -- some of the fellows said -- they  
25 heard him asking for a man who had been a Japanese



McDOUGALL

DIRECT

prisoner before. He was a passenger on our ship.  
1 This man's name was Alvin T. Parker; and the captain  
2 said he thought he would give himself up and see if  
3 he could get a settlement for the crew. So the  
4 chief mate turned around to one of the Japanese  
5 guards and told him that. He says, "This is the  
6 captain and I am the chief officer." I guess the  
7 man didn't understand him because he went and got an-  
8 other seaman and came back with him and the mate  
9 told him the same thing. So they jerked the chief  
10 mate to his feet and they tried to lift the captain  
11 up but he stumbled and fell down. I think they  
12 kicked him or something. They pulled him back to  
13 his feet. The man who was speaking said, "Oh, you  
14 are the Finnish skipper of that ship." They took  
15 them, took the captain and the mate. The second mate  
16 and the third mate stood up and the radio operator  
17 They also took them down to the conning tower. We  
18 never saw them again. Well, then, during that time  
19 that we had been captured they checked our bounds  
20 two or three times. They found a few of the men  
21 had been able to get theirs a little loose. Some of  
22 them had been able to get free altogether. Well, the  
23 men they caught had been loose and free they beat  
24 pretty well with pipes and lashed them back up tighter.  
25

McDOUGALL

DIRECT

Then they started taking the men. They started up  
2 the bow taking them by rows, one at a time. They  
3 marched them down the port side of the sub back to  
4 the conning tower there. A ship's carpenter told  
5 me later he had a peek back there and saw them take  
6 one man named Kine. He was an 18-year old ordinary  
7 seaman. Two of the seamen held him up while another  
8 one ran him through once or twice with a bayonet.  
9 Then they pushed him over the side.

10 Q How long were you a prisoner on the deck  
11 of the submarine?

12 A Approximately four hours.

13 Q What happened at the end of that time?

14 A We were just cruising along and all of a  
15 sudden a horn blew -- I think it was a horn -- and  
16 the Japs started running back out towards the conning  
17 tower. All of us knew what that meant so we jumped  
18 up. My friend Hess, he had been able to -- he had  
19 been scratching his bonds with his fingernail for  
four hours. He told me he had them pretty well worn.  
He said he could break them. So he tried. So he  
broke his bonds and started untying me and one of  
the navy gunners there -- he had two pair of pants  
. He had a knife in his inside pair in his pocket  
which they didn't find; so Hess tore his pants off and



McDOUGALL

DIRECT

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24 on. He had a knife in his inside pair in his pocket  
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McDOUGALL

DIRECT

1 got this knife and cut him loose and cut myself --  
2 well, he cut myself and two or three other fellows and  
3 then he was kneeling down, I think untying one fellow,  
4 and he gave me the knife, and I cut two or three  
5 fellows. By that time the bow was pretty well under  
6 water. Well, by that time the bow was under water,  
7 and we got knocked down. The fellows who were still  
8 tied, they lost their balance and they just got washed  
9 off the side. So we stood up, and we jumped as far as  
10 we could away from the sub to get clear of the pro-  
11 pellers. When I came to the surface I called for  
12 Hess; he called back. A conning tower was just  
13 going by, just going down, so we could see the ship  
14 burning on the horizon. So we started, got together  
15 and took our shirts and pants off, threw them away  
16 and we started swimming and we -- At that time we  
17 didn't see anyone else though we heard some fellows  
18 hollering; so we told them to swim toward the ship;  
19 we would meet there. Hess and I, we swam all that  
20 night. Early the next morning we were fairly close  
21 to the ship there, and the sub surfaced again; and  
22 during the night -- well, they made the sub submerge.  
23 There was a PBY flew over about fifteen minutes after  
24 we got off the sub. We swam all that night. Early  
25 the next morning the sub came to the surface, looked

McDOUGALL

DIRECT

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25 the next morning the sub came to the surface, looked



McDOUGALL

DIRECT

1 around with their searchlights, fired a few pistol  
2 shots. We couldn't see what they were firing at.  
3 We just lay still in the water. After firing the  
4 shots, altogether she stayed on the surface about  
5 fifteen minutes, a half an hour, she cruised off and  
6 submerged again. Well, after she went away we started  
7 swimming again and we made the ship, climbed up the  
8 nets. The ship had been burning all night. Every-  
9 thing -- the guns were melted. It was pretty badly  
10 damaged.

11 When we got up the boat deck Hess spotted  
12 a life ring up on the wing of the bridge so he jumped  
13 off the nets, took three or four steps across the  
14 deck of the ship, and burned the bottom of his feet  
15 off. He managed to get the ring and he threw it back  
16 to me. He was so tired he couldn't jump or anything;  
17 he had to go back down the net so he ran back across  
18 the deck. We got back in the water and we were hanging  
19 on to that when an hour or so later Lloyd B. Ruth, the  
20 wiper, eighteen years old, he came swimming up.  
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McDOUGALL

DIRECT

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1 He told us he was going to swim back out -- nothing on  
2 the fantail that burned, so it would be pretty cool  
3 back there, and the stern was under water. I tried to  
4 go with him, but I couldn't make it. He made it back  
5 there to the fantail, and he went on board, and he got  
6 a small navy raft, and he found a canteen of water.  
7 After he got the raft he got back in the water, and so  
8 we got together and we got on the raft with him.

9 A short time after that the ship sunk, and  
10 there was one big raft left on the ship that had been  
11 jammed in the hangar when the torpedo hit; so, when the  
12 ship sunk, it floated to the surface, and we got that.  
13 Then the PBY came back. She circled around us; dropped  
14 three life jackets. Ruth and I -- we swam out and got  
15 two of them. The one I got, it had a flare kit. And  
16 there was a note and a thermos bottle of water and  
17 some bread. The note told us to drop our sea anchor,  
18 hold our position. "Good luck. Royal Canadian Air  
19 Force."  
20

21 Q After you got on this life raft, did you pick  
22 up any more survivors of the Jean Nicolet?

23 A Yes. A short time later Bill Flury and Harold  
24 Lee came swimming up.

25 Q Were any of these survivors among those who had  
been led aft the cunning tower on the submarine?



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1           A    Yes. When Harold Lee came swimming up, the  
2 back of his head was full of blood. When I asked him  
3 what was wrong he said when he was taken back aft  
4 there were three or four Japanese lined up against  
5 the taffrail and three or four against the cunning  
6 tower, and the man that was behind him, the guard,  
7 would hit him over the head, give him a push through  
8 the line, and the rest of the Japanese there, they  
9 were holding pipes and bayonets down at their side,  
10 and they raised those to strike him, but he swung  
11 around and dove between two of them over the side  
12 of the sub into the water.

13           Q    How long did you remain on the raft?

14           A    We remained all that day, all that night,  
15 until the next afternoon. The H. M. S. Hoxa came out  
16 and picked us up.

17           Q    After you were taken on board the Hoxa did  
18 you meet any more survivors of the Jean Nicolet?

19           A    Altogether there were twenty-four of us that  
20 survived, but I met two of the men on there. There  
21 was the First Assistant Engineer; he had his head  
22 split open right across the top.

23           Q    Was he one of those men who had been led  
24 aft the cunning tower on the submarine?

25           A    Yes, he ran -- he ran all the way through the

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1 gauntlet, and they threw him into the sea.

2 Q What was his name?

3 A His first name I can't remember. Pyle was  
4 his last name. He was First Assistant Engineer.

5 Q What was his physical condition at the time  
6 you talked to him?

7 A He had his head split open from ear to ear,  
8 and he stayed in the hospital for a week on the  
9 Maldive Islands, and then was taking treatment when  
10 we hit Ceylon for about a month before he went home.  
11 He was also hospitalized back in the United States.

12 Q While you were on board the Hoxa did you  
13 talk to any other survivors that had been led aft  
14 the cunning tower on the submarine?

15 A Yes, there was another man. He was ~~Seaman~~ l/c  
16 Butler of the gun crew.

17 Q What did he tell you about his experience?

18 A Well, he was led back the same as the rest  
19 of them, and someone had swung -- it was either a  
20 pipe or bayonet or some other sharp instrument. He  
21 ducked, and it hit him above the eye, just above his  
22 left eye. I don't know how he got off the submarine,  
23 but he was hospitalized on Maldive Islands for about  
24 a week, and he had a patch on his eye for a long  
25 time.



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1 Q Of the one hundred passengers in the crew  
2 of the S. S. Jean Nicolet, how many were led aft the  
3 cunning tower on the submarine?

4 A I would say approximately sixty.

5 Q How many of these men survived?

6 A Three.

7 Q What were their names?

8 A There was Pyle, Butler, and Lee.

9 Q Approximately how many men from the Nicolet  
10 were on the deck of the submarine when it submerged?

11 A Approximately thirty-five.

12 Q How many of these survived?

13 A Twenty-one.

14 Q Where did the Hoxa take you to?

15 A The Hoxa picked us up and took us into Addu  
16 Atoll in the Maldive Islands.

17 Q What happened there?

18 A Well, I was about the only one that wasn't  
19 put in the hospital; and a day or so later the  
20 island next to us was occupied by the Royal Canadian  
21 Air Force. A day or two after we arrived all the  
22 pilots and crew for these three or four planes that  
23 had stationed there came over and got all of us  
24 together, and they questioned us on armanent of the  
25 submarine, speed, how long it took it to get under

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1 water from the time she started her dive, and her  
2 weak points, where to attack her from if they spotted  
3 her. Well, the carpenter and myself, we were -- he  
4 was out of the hospital by then; so they asked us if  
5 we would like to come over and spend the day on their  
6 island.

7 THE PRESIDENT: We will recess for fifteen  
8 minutes.

9 (Whereupon, at 1045, a recess was  
10 taken until 1100, after which the proceed-  
11 ings were resumed as follows:)  
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1 MARSHAL OF THE COURT: The Tribunal is now  
2 resumed.

3 THE PRESIDENT: Commander Cole.

4 BY COMMANDER COLE (Continued):

5 Q What did the Canadian Air Force pilots tell  
6 you that they had seen at the time of the -- or after  
7 the torpedoing of the Jean Nicolet?

8 A Well, they told us that they had seen a few  
9 fellows in the water who were dead, and they also  
10 spotted a man that was floating on his back with his  
11 hands crossed across his chest, and they made a big  
12 circle -- they said they made a circle to get in  
13 lower to drop the man a life preserver, and when they  
14 got back the man -- either part of his head or his  
15 head was gone. Then they spotted another man swimming  
16 in the water. When they got back to the second man  
17 part of his leg was gone.

18 Q Did they see any sharks at that time?

19 A Well, there was sharks around all of us,  
20 within a few feet. But we just keep moving; they didn't  
21 bother us.

22 Q When did you leave Addu Atoll?

23 A We left Addu Atoll about a week after our  
24 arrival on the H.M.S. Sunavadi for Ceylon; Colombo,  
25 Ceylon. When we arrived there, there was a coastguard

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1 commander, a naval commander of Intelligence, and a  
2 British commander.

3 Q Before you arrived at Colombo, what happened  
4 on board the Sunavadi?

5 A Well, while the planes were looking for us  
6 they had spotted some survivors in other boats and  
7 they had also told them to hold their position. So  
8 I think the Sunavadi had gone out and picked them up.  
9 And on board -- there was a British ship there that  
10 had been torpedoed -- were an Indian crew, British  
11 officers. They were headed towards Fremantle,  
12 Australia.

13 Q While on board the Sunavadi, did you talk to  
14 any of the survivors of this British ship?

15 A Yes, I talked to the chief mate. He told me  
16 they had three women on board. One woman had two  
17 children with her. One child she was carrying, and  
18 the other one was just walking. The mate told me when  
19 they were torpedoed he was in -- in the lifeboat he  
20 was in there was a chief petty officer of the United  
21 States Navy, which I slept next to in Ceylon. Also  
22 one of the women was in their boat, and the other two  
23 women were in another boat. And after the torpedoing  
24 the sub came to the surface, pulled alongside the  
25 second lifeboat, and took the two women out, the two



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1 two children and the Indian boatswain. They took the  
2 babies and threw them over the side into the water.  
3 They took the two women below in the submarine.  
4 They questioned the boatswain, they beat him, threw  
5 him into the water, and he swam back to his lifeboat  
6 and the sub submerged.

7 Q After you reached Colombo, Ceylon, did you  
8 talk to any other survivors of this British ship?

9 A Yes, in the billet I stayed in the chief  
10 petty officer slept in the bunk next to me and we  
11 stayed there for about a month until he shoved off.

12 Q What did this chief petty officer tell you  
13 about the torpedoing of the British ship?

14 A He told me exactly what the chief mate had  
15 told me.

16 Q While you were at Colombo, Ceylon, were you  
17 interrogated as to the submarine which torpedoed the  
18 SS Jean Nicolet?

19 A Yes. There was a Lieutenant Commander  
20 Ritchie, of the coastguard, and another lieutenant  
21 commander of Navy Intelligence; I can't remember his  
22 name. They kept all of us survivors and questioned  
23 us for two days, and the description that we gave of  
24 the submarine, they said it was undoubtedly a German-  
25 built submarine, and they also said that some of the

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1 submarines operating in that area were German captain,  
2 or German officers and captain and Japanese crew.

3 COMMANDER COLE: That concludes the examination  
4 in chief of this witness.

5 MR. LOGAN: If the Tribunal please.

6 THE PRESIDENT: Mr. Logan.

7 CROSS-EXAMINATION

8 BY MR. LOGAN:

9 Q How long had you been going to sea before you  
10 got on the Jean Nicolet?

11 A I had been in the merchant marine approximately  
12 thirteen months.

13 Q And you know that this Jean Nicolet was a  
14 vessel owned and operated by the United States of  
15 America through the War Shipping Administration?

16 A Yes.

17 Q And you were employed by the United States  
18 Government as an able-bodied seaman?

19 A I was employed by the Oliver J. Olsen Steam-  
20 ship Company.

21 Q You signed shipping articles, didn't you?

22 A Yes.  
23  
24  
25



McDOUGALL

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1 Q You read the shipping articles before you  
2 signed them?

3 A All the shipping articles are just about  
4 the same.

5 Q No. I asked you if you read them.

6 A No.

7 Q Isn't it a fact that those shipping articles  
8 you signed stated you were employed by the United  
9 States of America under the War Shipping Administra-  
10 tion and that the Olsen Steamship Company was merely  
11 an operating agent?

12 THE PRESIDENT: He said he didn't read  
13 them, Mr. Logan. What is the point anyhow?

14 MR. LOGAN: Trying to find out if this boat  
15 was operated privately or by the United States  
16 government.

17 THE PRESIDENT: How does it help?

18 MR. LOGAN: I think I'll bring that out in  
19 a little while, your Honor.

20 THE PRESIDENT: The things he deposes to,  
21 if true -- and that is a matter to be determined --  
22 could not be justified by the difference between the  
23 United States government and the United States ship  
24 owners.

25 MR. LOGAN: Is the question disallowed,

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1 your Honor?

2 THE PRESIDENT: No objection is taken, but  
3 I do want to know what the significance of the  
4 question is. We want to be guided by you.

5 MR. LOGAN: Well, we will pass it, your  
6 Honor.

7 Q This Jean Nicolet was an armed merchantman?

8 A Yes.

9 Q How many of a gun crew did you have on board?

10 A Twenty-eight, including the gunnery officer.

11 Q How many boat crew?

12 A I didn't get that question.

13 Q How many in the boat crew, the crew of the  
14 ship?

15 A You mean -- that is -- around forty, forty-  
16 five.

17 Q Were any of the passengers members of the  
18 armed forces?

19 A I think there was four captains, one lieu-  
20 tenant and around eight or nine, maybe a dozen, army  
21 men.

22 Q Was the Jean Nicolet sailing in convoy?

23 A No.

24 Q How many of the men on board were killed  
25 when these two torpedoes exploded in the vessel?



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1           A    There was no one killed in the torpedoing.  
2   There was one broken arm getting off the ship.

3           Q    Now, you testified one man being shot in  
4   the head three times when he went aboard the sub-  
5   marine. Did you actually see that?

6           A    No. I stated I was behind the raft.

7           Q    You just heard the shots. Is that it?

8           A    Yes.

9           Q    As a matter of fact, you don't know, of your  
10   own knowledge, whether he was shot or where he was  
11   shot?

12          A    No, I didn't actually see him myself.

13          Q    So that when you say he was shot in the  
14   head three times you are just guessing, aren't you?

15          A    All the men in that lifeboat saw him shot,  
16   and there was quite a few survivors out of that boat.

17          Q    Didn't you testify that when you heard those  
18   shots that you and the rest of the members of that  
19   life boat were hanging on the opposite side in the  
20   water?

21          A    I was on a lifeboat. The man who was  
22   shot -- I was on a life raft. The man who was shot  
23   was out of the first boat.

24          Q    When you went aboard the submarine did the  
25   Japanese tie your hands and the hands of everybody

McDOUGALL

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1 who went aboard, behind their backs?

2 A Yes.

3 Q How large was this pipe with which this  
4 Japanese struck you?

5 A About two feet -- two and one-half feet  
6 long.

7 Q How thick was it?

8 A I didn't see it that close. I just felt it.

9 Q You testified he struck you over the head  
10 with it. Were you knocked unconscious?

11 A I was knocked over forward on my face. I  
12 wasn't knocked unconscious.

13 Q You testified just now that you didn't see  
14 it, you didn't know how thick it was, so how do you  
15 know it was a pipe or how do you know how long it  
16 was?

17 A I saw it when he sat down to talk to us,  
18 sat in front of us.

19 Q How thick was it at that time?

20 A He was holding it across his lap.

21 Q Did you see it or didn't you see it?

22 A Yes, I saw it.

23 Q How thick was it?

24 A I can't say.

25 Q You know actually how many of the survivors



McDOUGALL

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1 of the Jean Nicolet got on the submarine?

2 A I think there was all but three.

3 Q And you say sixty of them were led aft?

4 A To the best of my knowledge I think that  
5 is what there were. Around sixty.

6 Q Did you actually see what happened to any  
7 of these sixty when they were led aft?

8 A No.

9 Q What time did you get off the submarine?

10 A As close as we could figure it was around  
11 midnight.

12 Q When did you reach the Jean Nicolet?

13 A Oh, I would say it was around seven or  
14 eight the next morning.

15 Q This seaman, this one seaman concerning  
16 whom you testified, you say he dove off the submarine  
17 and he told you about it later? He was one of those  
18 who went aft? Was that it?

19 A Yes. That was Harold Lee.

20 Were his hands tied when he dove off?

21 A Yes.

22 Q Didn't he get them loose later?

23 A Either he got them loose or someone found  
24 him and helped him get them loose.  
25

Q Now, the cause of the submarine sinking,

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1 submerging, rather, while you were still on the  
2 deck, was because this airplane was coming over. Is  
3 that right?

4 A Yes.

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1 Q In other words, it was a case of necessity  
2 of the submarine sumberging at that particular time?

3 A Yes.

4 Q Then, all this testimony you have been giving  
5 us about this other British ship is all hearsay testi-  
6 mony, isn't that so?

7 A Yes.

8 Q And your report of the number of survivors  
9 of the Jean Nicollet -- Isn't it quite possible that  
10 there were other survivors picked up by other ships  
11 and you don't know the number of those?

12 A I don't think that would be possible. The  
13 airplane searched the area pretty thoroughly.

14 Q Did you ever make any effort or did you ever  
15 see any final report on the number of survivors of  
16 that ship?

17 A There was only twenty-four I know of.

18 Q Did you ever see any final report?

19 A No.

20 Q Now, would you mind repeating for me  
21 what you said about this? You went into one of  
22 these islands and they were talking about this ship  
23 being a German-built submarine?

24 A That was at Colombo, Ceylon. It was navy  
25 intelligence told us that.

McDOUGALL

CROSS

1 Q Is that the U. S. Navy?

2 A Yes.

3 Q And they told you that in their opinion  
4 it was a German-built submarine and probably had a  
5 German captain aboard, is that right?

6 A No, they told us it was a German-built sub-  
7 marine and that some of the submarines in that area  
8 were operating with German officers and German captains.

9 Q And Japanese crew?

10 A Yes.

11 Q So you don't know of your own knowledge  
12 whether this was a submarine owned and operated by  
13 the Japanese Navy or whether it was a submarine  
14 owned and operated by the German Navy, isn't that  
15 true?

16 A We only saw one officer and he was Japan-  
17 ese. All the rest of the men were Japanese.

18 Q You don't know if there were any Germans  
19 below or not, do you?

20 A No.

21 Q So it is quite possible that this was a  
22 German submarine and not a Japanese submarine, isn't  
23 that so?

24 A No, she didn't have--

25 THE PRESIDENT: We will have to form our



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1 own conclusions from what he has told us.

2 MR. LOGAN: Did he answer the question?

3 THE WITNESS: Pardon me?

4 Q Isn't there a question unanswered there?

5 A I don't remember. I didn't hear it, at  
6 least.

7 (Whereupon, the last question and  
8 statement by the President were read.)

9 THE PRESIDENT: Answer it, please.

10 THE WITNESS: There were no markings either  
11 way. I didn't see any Germans; they were all Jap-  
12 anese.

13 BY MR. LOGAN (Continued):

14 Q Do you know how many men were in the crew  
15 of the submarine?

16 A No.

17 MR. LOGAN: Thank you.

18 That is all, your Honor. No further  
19 cross-examination.

20 COMMANDER COLE: We ask that the witness  
21 be excused from further attendance on the usual  
22 terms.

23 THE PRESIDENT: We direct accordingly.

24 (Whereupon, the witness was excused.)

25 THE PRESIDENT: Captain Robinson.



1 CAPTAIN ROBINSON: If it please the Tribu-  
2 nal, prosecution documents No. 8389 and No. 8390,  
3 statements by other survivors of the attack follow-  
4 in; the sinking of the S. S. Jean Nicolle, prose-  
5 cution documents No. 8393 and No. 8394, statements  
6 by survivors of the S. S. John A. Johnson, and  
7 prosecution document No. 8485, a formal certifi-  
8 cate, are offered in evidence.

9 THE PRESIDENT: Admitted on the usual  
10 terms.

11 CLERK OF THE COURT: Prosecution document  
12 No. 8389 will be given exhibit No. 2087, document  
13 No. 8390 will be given exhibit No. 2088,  
14 document No. 8393 will be given exhibit No. 2089,  
15 document No. 8394 will be given exhibit No. 2090,  
16 and document 8485 will be given exhibit No. 2091.

17 (Whereupon, the documents referred to  
18 were marked prosecution's exhibits No. 2087, 2088,  
19 2089, 2090, and 2091, respectively, and received in  
20 evidence.)

21 CAPTAIN ROBINSON: From document 8389,  
22 exhibit 2087, brief excerpts are read, from pages  
23 2 and 4, beginning on page 2, the first main para-  
24 graph. This is the affidavit of Charles E. Pyle,  
25

1 First Assistant Engineer of the Jean Nicollet.

2 (heading) "Shortly after he boarded our  
3 boat, the submarine made its appearance in the near  
4 vicinity, and the first questions that were directed  
5 to us from the submarine were in good English, al-  
6 though I was unable to determine who was uttering  
7 them. The first questions were concerning the name  
8 of the vessel and the whereabouts of the Captain or  
9 ship's officers, to which we answered the Jean  
10 Nicolet, but advised the Japanese that the ship's  
11 officers were still aboard the vessel. Orders were  
12 given to us to come aboard the submarine. They  
13 threw us a line and we maneuvered up to the side  
14 when they ordered us to come aboard. We started  
15 going aboard and a Japanese crewman of the submarine  
16 helped us over the railing alongside the conning  
17 tower. After all the survivors had gained the deck  
18 of the submarine, the Japanese proceeded to fire  
19 upon the life boat with machine guns in an attempt  
20 to sink the same, which was apparently accomplished,  
21 as I never saw it again. The Japanese immediately  
22 stripped us of all our possessions, with the excep-  
23 tion of clothes. Each one of the twentieth-five mem-  
24 bers of our boat, including Captain Nilsson of the  
25



1 Nicolet, were bound with our hands tied behind our  
2 backs. We were then led back. During my entire  
3 stay aboard the submarine, I did not see any men  
4 that I assumed to be Japanese naval officers, but,  
5 instead, saw only Japanese crew members who were  
6 dressed in khaki shorts with a red patch upon their  
7 left sleeve, apparently designating their affilia-  
8 tion with the Japanese Imperial Navy, and later, when  
9 I was questioned at Colombo, I heard other members  
10 of my crew state that they saw a Japanese officer  
11 with a samurai sword aboard the submarine, but they  
12 did not know his rank.

13 "The first man to be bound was William Mauser,  
14 utility messman (phonetic), who was led forward and,  
15 for no apparent reason at all, was shot and shoved  
16 over the side and I watched his body float by me  
17 into the sea."

18 The next excerpt is from page 4, beginning  
19 at the top of the page, second line:

20 (heading) "Somewhere around midnight, I  
21 was picked up and led aft, at which time I noticed  
22 the deck guns being secured and that thirty or  
23 thirty-five survivors of our vessel were still sit-  
24 ting on the submarine deck. I learned then that the  
25

1 Japanese crew were employing a tactic somewhat simi-  
2 lar to the old Indian practice of running the gaunt-  
3 let wherein they force survivors to pass between  
4 two lines of men armed with clubs, bars and other  
5 blunt objects and, when reaching the end, being  
6 either shoved or knocked into the sea to drown.  
7 Apparently this process had been going on for some-  
8 time before I was called to take my turn and I esti-  
9 mate that approximately eight men on the inboard  
10 line and four or five on the outboard. When I  
11 momentarily stopped to survey the situation, I was  
12 struck a terrific blow at the base of my head  
13 which caused me to feel a sensation similar to a  
14 bouncing ball. From there on, I was shoved down  
15 through the two lines of Japanese who rained blows  
16 upon my body and head with various objects which I  
17 was too stunned and dazed to identify, although I  
18 was later advised by my doctor that I had been cut  
19 with a bayonet or sword in the process.  
20

21 "When I reached the end of the gauntlet,  
22 I fell into what appeared to me to be a white  
23 foamy sea."  
24  
25



1           CAPTAIN ROBINSON: From prosecution's  
2 document 8390, exhibit 2088, brief excerpts are  
3 read from pages 1, 3, and 4.

4           THE PRESIDENT: Captain Robinson, we  
5 notice that you are omitting to quote very material  
6 passages. We take it, of course, that all those  
7 marked parts are in evidence. They are the excerpts.  
8 You are not obliged to read all that appears in an  
9 excerpt nor is it desirable in many cases to do so,  
10 but you are omitting to read matters that were  
11 cross-examined about. Lord Patrick has pointed out  
12 to me you have not read that part where this witness  
13 or this deponent explains how he kept afloat although  
14 his hands were tied. I refer to Pyle's statement  
15 on page 4. You stopped at the words "foamy sea" in  
16 the second line of the second paragraph. The whole  
17 of page 4 is in evidence; and it is desirable that  
18 you should read on and explain how this man, according  
19 to his testimony, kept afloat although his hands were  
20 tied.

21           CAPTAIN ROBINSON: Yes, your Honor. The  
22 only difficulty is the translation section and  
23 if they can pick it up. Before cross-examination,  
24 of course, we made our arrangements with the trans-  
25 lation section about what part would be translated

concurrently.

1 Will the translation section translate  
2 concurrently the second section, page 4?

3 THE MONITOR: Yes, we can, sir.

4 THE PRESIDENT: You need not worry. He  
5 says that he kept afloat by treading the water.

6 Yes, proceed with the document you were  
7 reading when I interposed.

8 CAPTAIN ROBINSON: From document No. 8390,  
9 exhibit 2088, brief excerpts from pages 1, 3, and  
10 4. At page 1 -- this is the affidavit of Robert  
11 Calvin Butler -- beginning at the third sentence  
12 or fourth:

13 (Reading): "On 24 April 1944 I reported  
14 to Lieutenant (jg) G. V. DEAL, U.S.N.R., Armed  
15 Guard Commander aboard the S. S. JEAN NICOLET, for  
16 duty as a member of the U. S. Navy Armed Guard crew  
17 of that vessel, which was at that time berthed at  
18 Oakland, California. On 20 April 1944 the JEAN  
19 NICOLET left Oakland and went to San Pedro, California,  
20 and after loading at Wilmington, California, departed  
21 on 12 May 1944, being routed independently to Colombo,  
22 Ceylon, via Fremantle, Australia. We arrived at  
23 Fremantle on 19 June 1944 and left there the next day  
24 on the day after. For about ten days nothing happened.  
25



1 Then on 1 July 1944 an empty lifeboat was sighted  
2 drifting by."

3 Turning to page 3, slightly above the  
4 middle of the page, about 15 lines from the top:

5 (Reading): "As each boat or raft came  
6 alongside the Japs would ask for the Captain, but  
7 none of us would tell who the Captain was. Later  
8 on the First Mate revealed his identity and pointed  
9 out the Captain to the Japs. They took the two of  
10 them aft and we did not see either of them again.  
11 They could have taken them inside the sub but I do  
12 not think so. They also asked for all officers and  
13 merchant marine radioman. Some of the Army officers  
14 went also. I do not know what happened to them,  
15 they just left. I do not think there were any prisoners  
16 taken aboard the sub as I can't see what they would  
17 do with them, but no one was sitting where he could  
18 see the entrance to the conning tower or what went  
19 on the after deck. I did not see anyone killed, nor  
20 did I see anyone shot in the back or while in the  
21 water. We were faced forward and when they were  
22 strafing they did it aft with machine guns, and we  
23 thought they might be still firing at the boats.  
24 Some of the Japs spoke fairly good English and several  
25 wore sabers, and we judged them to be officers. One

1 man kept telling us that 'it was a fine battle.' One  
2 of us asked a Jap what they were going to do with  
3 us, to which he replied that they would hit us in  
4 the head and throw us over the side, but he gave  
5 no reason for doing so."

6 On the next page, beginning at the top  
7 of the page:

8 "After we were all sitting on the deck  
9 of the sub they started picking out men and taking  
10 them aft. I did not know what they were doing to  
11 them as I was sitting pretty far forward and could  
12 not hear anything that went on on the stern and was  
13 afraid to look back. Soon they came and got me and  
14 took me back aft where eight or ten Japs were lined  
15 up against the conning tower holding sabers, clubs,  
16 and lengths of lead pipe. One Jap stopped me and  
17 tried to kick me in the stomach. Another hit me  
18 over the head with an iron pipe. Another cut me over  
19 the eye with a saber. I managed to break away after  
20 I had gotten past the second one, and jumped overboard,  
21 and although I did not lose consciousness the sub  
22 was gone when I came up, but was still in sight. I  
23 did not see any other men run the gauntlet, but three  
24 that I know of went through it. I later found out  
25 that the sub submerged with about forty men on deck,



1 some of whom were saved. I started to drift towards  
2 the ship and they then opened fire on her again.  
3 I was afraid they might machine gun me if they saw  
4 me, so I began to swim away from the ship."

5 The next document --

6 THE PRESIDENT: Before you proceed to  
7 that, Mr. Justice Northcroft points out to me that  
8 on page 3 of the exhibit 2087, that is Pyle's state-  
9 ment, there is a reference to the Japanese commander.

10 You will see that reference in the second  
11 line of the second paragraph on page 3.

12 CAPTAIN ROBINSON: Would the Tribunal wish  
13 me to read that paragraph, sir?

14 THE PRESIDENT: Yes. It is part of an  
15 excerpt.

16 CAPTAIN ROBINSON: Document 8393, exhibit  
17 No. 2089, brief excerpts from pages 1 and 2, the  
18 affidavit of Charles H. Rhodes, first on page 1,  
19 second paragraph:

20 (Reading): "I sailed aboard the S. S.  
21 JOHN A. JOHNSON from San Francisco, California, on  
22 Wednesday, 25 October 1944, serving aboard that ship  
23 as the Second Assistant Engineer.

24 "On the night of Sunday, 29 October 1944,  
25 the S. S. JOHN A. JOHNSON was torpedoed ..."

1 I pass on to page 2 -- no -- the bottom  
2 of that same page, four lines from the bottom.

3 "However, at a point when the submarine  
4 continued approximately amidship with respect to  
5 our boat and the group that were in the water,  
6 machine-gun fire was opened on us from a group of  
7 men who were standing along the starboard rail on  
8 the main deck of the submarine. The distance from  
9 the point where the fire was opened to those of us  
10 who were in the water is estimated by me to be  
11 approximately thirty feet. I was hit by a bullet  
12 in my left shoulder, the concussion of which caused  
13 severe pain to the entire left area of my body and  
14 has resulted in my hospitalization for treatment of  
15 the wound."

16 Dropping down about ten lines, in the next  
17 paragraph on page 2:

18 "I lay in the bottom of the boat in a position  
19 as if I had been killed and was dead, and again the  
20 bow of the submarine brushed the boat and when it  
21 had reached a point approximately amidship of the  
22 submarine with respect to our boat, a brilliant white  
23 light was placed on our boat. It is my belief that  
24 this light was used to take a picture. No guns were  
25 fired from the submarine at this time, although



1 immediately after the light was removed, the sub-  
2 marine was turned hard port, obviously in an attempt  
3 to involve our boat and as many men as possible in  
4 the screws.

5 "A large number of the members of the crew  
6 of the submarine were standing on the deck and  
7 gathered around in the conning tower and were  
8 yelling and laughing at our predicament. I person-  
9 ally saw five of the men from the JOHNSON who were  
10 wounded as a result of the gunfire from the submarine.  
11 I saw some of those men in the water and when taken  
12 aboard the U. S. S. ARGUS, which ship rescued all  
13 of the survivors. The submarine later disappeared  
14 since approximately at that time, planes appeared  
15 overhead."

16 The next document, 8394, exhibit No. 2090,  
17 I read brief excerpts from pages 1 and 2 of the  
18 document. At the bottom of page 1, five lines from  
19 the bottom -- this is the affidavit of James Dixon  
20 Pearson:

21 (Reading): "At this time, the submarine  
22 opened fire with one machine-gun indiscriminately  
23 at all persons and at the boat. I noted both machine-  
24 gun and pistol fire coming from the submarine and  
25 recall that the pistol was being fired by a figure

1 on a higher elevation than that from which the  
2 machine-gun was being fired. I also observed that  
3 the man who was firing the pistol was dressed dif-  
4 ferently from the other figures on the deck of the  
5 submarine and assumed that he was an officer.

6 "I heard at this time a great deal of what  
7 I would term jabbering and which had a definite  
8 Oriental sound, accompanied with considerable laughter  
9 and occasional shouts of 'Banzai.'"

10 Dropping down five paragraphs, I read  
11 the paragraph second from the bottom on page 2:

12 "After some interval of time, I swam back  
13 to the lifeboat and was hauled aboard. After ar-  
14 riving on the boat, I noticed there were five who  
15 had been wounded by the gunfire of the submarine,  
16 and although I did not know I had been grazed by  
17 machine-gun bullets, as I discovered later, I was  
18 aware that they had been splattering all around me.  
19 I noticed some burns, but did not investigate the  
20 matter until the next day when I discovered that  
21 I had received three bullet burns, one across my  
22 stomach, one across my forearm, and one across  
23 the calf of my leg, which broke the skin."

24 THE PRESIDENT: Well, we have reached  
25 another stage, I take it. We will adjourn until



1 half-past one.

2 (Whereupon, at 1200, a recess was  
3 taken.)  
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## AFTERNOON SESSION

The Tribunal met, pursuant to adjournment,  
at 1330.

MARSHAL OF THE COURT: The Tribunal is now  
resumed.

THE PRESIDENT: Captain Robinson.

CAPTAIN ROBINSON: Mr. President, Members of  
the Tribunal. Attacks were made also upon survivors  
of torpedoed British ships, prosecution's document  
No. 8400, a protest transmitted by the Swiss Minister  
from the British Government to the accused SHIGEMITSU,  
Japanese Foreign Minister, dated 5 June 1944, is offered  
in evidence.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No.  
8400 will receive exhibit No. 2092.

(Whereupon, the document above re-  
ferred to was marked prosecution's exhibit  
No. 2092, and was received in evidence.)

CAPTAIN ROBINSON: This document reads as fol-  
lows: "5 June 1944. My Dear Minister,

"I have the honour of informing Your Excel-  
lency that the Government of His Britannic Majesty has  
asked me to hand to the Japanese Government the



1 following communication:

2 "1° His Majesty's Government have received  
3 numerous reports from survivors of torpedoed merchant  
4 ships which make it plain that commanders and crews of  
5 certain Japanese submarines in Indian Ocean are acting  
6 in complete disregards of international law and of hu-  
7 manitarian principles recognised by all civilised states.  
8 The following are incidents concerning British ships  
9 upon which this most serious accusation is founded.

10 "2° SS 'Daisy Moller' was torpedoed and sunk  
11 at 21 hours G.M.T. on 13th December 1943 in position 16°  
12 21' north, 82°13' east. Ship's boats containing sur-  
13 vivors were rammed by a submarine identified as Japanese;  
14 survivors were afterwards fired on in boats and machine  
15 gunned in water.

16 "3° SS 'British Chivalry' was torpedoed and  
17 sunk at 5.30 hours G.M.T. on 22nd February 1944 in  
18 position 0° 56' south, 68° east. Two boats and four  
19 rafts containing survivors were subjected to deliberate  
20 machine gun fire by a submarine identified as Japanese.  
21 Many were killed and one of the boats was sunk. The  
22 master of the ship was taken prisoner and compelled to  
23 watch machine gunning of his crew from the submarine.

24 "4° SS 'Sutley' was torpedoed and sunk at  
25 18.35 hours G.M.T. on 26th February 1944 in position

1 following communication:

2 "1° His Majesty's Government have received  
3 numerous reports from survivors of torpedoed merchant  
4 ships which make it plain that commanders and crews of  
5 certain Japanese submarines in Indian Ocean are acting  
6 in complete disregard of international law and of hu-  
7 manitarian principles recognised by all civilised states.  
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14 survivors were afterwards fired on in boats and machine  
15 gunned in water.

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17 sunk at 5.30 hours G.M.T. on 22nd February 1944 in  
18 position 0° 56' south, 68° east. Two boats and four  
19 rafts containing survivors were subjected to deliberate  
20 machine gun fire by a submarine identified as Japanese.  
21 Many were killed and one of the boats was sunk. The  
22 master of the ship was taken prisoner and compelled to  
23 watch machine gunning of his crew from the submarine.

24 "4° SS 'Sutley' was torpedoed and sunk at  
25 18.35 hours G.M.T. on 26th February 1944 in position



1 8° south 70° east. A submarine identified as Japanese  
2 fired with small arms upon survivors clinging to rafts  
3 and to wreckage.

4 "5° SS 'Ascot' was torpedoed and sunk on 29th  
5 February 1944 approximately 800 miles 72° from Diego-  
6 Suarez. Ship's lifeboat was subsequently machine  
7 gunned by a submarine identified as Japanese and 44  
8 out of 52 survivors were killed.

9 "6° SS 'Nancy Moller' was torpedoed and sunk  
10 at 8 hours G.M.T. on 18th Nat 1944 in position 2° 14'  
11 north 78° 25' east. A submarine identified as Japanese  
12 fired repeatedly on survivors killing a large number.

13 "7° Ships concerned in above incidents were  
14 all British ships but His Majesty's Government have  
15 received reports of similar incidents involving ships  
16 of their allies. In particular survivors from the  
17 Dutch ship SS 'Tjisalak' were treated with utmost bru-  
18 tality and the incident has been made the subject of a  
19 protest by the Royal Netherland's Government; a number  
20 of British subjects were killed in a massacre committed  
21 by this Japanese submarine and His Majesty's Government  
22 accordingly associate themselves with the protest made  
23 by the Royal Netherland's Government.

24 "8° His Majesty's Government make the most  
25 emphatic protest against inhuman and criminal actions

1 of Japanese submarine commanders and crews involved in  
2 above incidents and demand that Japanese Government,  
3 while issuing most immediate instructions to prevent  
4 their repetition, take disciplinary action against per-  
5 sons responsible. Number and circumstances of these  
6 incidents indicate that not one but several Japanese  
7 submarine commanders have violated in the most flagrant  
8 manner elementary humanitarian principles of maritime  
9 warfare. Signed The Swiss Minister.

10 "To His Excellency Mr. Mamoru SHIGEMITSU  
11 Minister for Foreign Affairs Tokyo."

12 Prosecution document No. 8397, a note from  
13 the Swiss Legation to the Japanese Foreign Minister,  
14 the accused SHIGEMITSU, dated 20 July 1944, is offered  
15 in evidence.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document  
18 No. 8397 will receive exhibit No. 2093.

19 (Whereupon, the document above re-  
20 ferred to was marked prosecution's exhibit  
21 No. 2093, and was received in evidence.)

22 CAPTAIN ROBINSON: This will not be read.  
23 Prosecution documents are now offered in evidence as  
24 statements of survivors of the British ships as indi-  
25 cated, as listed in the foregoing British protest,



1 document 8400, exhibit No. 2092:

2 Prosecution document No. 8380, SS Daisy Moller;

3 Prosecution document No. 8381, SS British Chi-  
4 valry;

5 Prosecution document No. 8382, MV Sutley;

6 Prosecution document No. 8383, SS Ascot;

7 Prosecution document No. 8379, SS Nancy Moller.

8 Prosecution document No. 8388 is the statement  
9 of a survivor of the Netherlands ship Tjisalak.

10 Prosecution document No. 8472 is a chart of  
11 the sinkings.

12 These documents are offered in evidence.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution document No.  
15 8380 will receive exhibit No. 2094; document No. 8381 .  
16 exhibit No. 2095; document No. 8382 exhibit No. 2096;  
17 document No. 8383 exhibit No. 2097; document No. 8379  
18 exhibit No. 2098; document No. 8388 exhibit No. 2099;  
19 and document No. 8472 exhibit No. 2100.

20 (Whereupon, the documents above re-  
21 ferred to were marked as indicated by the  
22 clerk of the court and received in evidence.)

23 CAPTAIN ROBINSON: Excerpts from these docu-  
24 ments are now read. Document No. 8380, exhibit No.  
25 2094, reads as follows:

1 "Statement of R. J. Weeks, Master, SS Daisy  
2 Moller, sunk 14 December 1943.

3 "On 0420 December 14th, the vessel was struck  
4 on the starboard side between No. 1 and 2 holds by a  
5 torpedo fired at the vessel without warning. Vessel's  
6 position at the time of the attack being 195° 16 miles,  
7 Sacramento Shoal Light House. Vessel immediately started  
8 to list and sink by the head. I ordered all boats to  
9 be lowered. The starboard forward boat was smashed in  
10 lowering and I took the double boat's complement into  
11 the port forward boat. As far as I could ascertain every  
12 one got away from the vessel, which sank 3 minutes after  
13 I left her. As the vessel sank the submarine appeared  
14 about 100 yards to the North of where the vessel sank.  
15 The sub approached my boat after firing a tracer bullet  
16 at us. No words were passed and the submarine turned  
17 away, but approximately three minutes later rammed my  
18 boat at an approximate speed of 16 knots, opening fire  
19 with machine guns directly after. I swam to a raft  
20 about 1½ miles away. The submarine then rammed the  
21 other two boats and machine gunned the water over a  
22 large area. By this time 12 men were hanging on to the  
23 raft. At daylight we saw two other rafts with one man  
24 on one of them. After a struggle we got the three rafts  
25 together and I placed 4 men on each of the others,



1 keeping 5 on my raft, one being R. Casson, a D.E.M.S.  
2 gunner who had a badly burnt and sprained foot. I ad-  
3 visec the others to rig a sail from the awning and  
4 keep close to my raft and we endeavored to make westing.  
5 At midnight December 17th we landed in the Krishna  
6 River delta and proceeded by various methods to Masuli-  
7 patam arriving there at 1400 December 18th 1943. We  
8 left there at 1600 December 20th arriving Vizagapatam  
9 at 1400 December 21st, 1943. Total amount of survivors  
10 known being sixteen, ships complement being 69 crew  
11 and 2 passengers. I should like to give a word of  
12 praise for the D.E.M.S. ratings who were saved. Their  
13 behavior was excellent. Signed R. J. Weeks, Master."

14 Excerpts will now be read from document 8381,  
15 exhibit No. 2095, at page 2, beginning with the second  
16 paragraph. This is the 'British Chivalry' log from  
17 22 February 1944:

18 "After sinking the vessel the submarine then  
19 opened fire on the two lifeboats with light machine  
20 gun fire. A white flag of truce was displayed from  
21 the Master's boat and machine gunning ceased. Attempts  
22 to signal by semaphore were made. The submarine closed  
23 the boats and waved us alongside. It was noted that  
24 the submarine was manned by Japanese. They intimated  
25 that they required the Master to board her, which he did.

1 The boats were then ordered to carry on and the sub-  
2 marine moved off.

3 "After the boats had been proceeding for about  
4 5 minutes in company the submarine suddenly altered  
5 course and steered for them, and on passing heavy machine  
6 gunning of the boats commenced. Most of the crew dived  
7 into the water and some lay down inside the boats. The  
8 machine gunning lasted until about 2 p.m. when one boat  
9 containing radio equipment etc. had been sunk and the  
10 other left in a sinking condition. The sub made off in  
11 a southwesterly direction.

12 "Strenuous efforts were then made by the sur-  
13 viving members of the crew to bale out the remaining  
14 boat, and at about 5 p.m. had been successfully made in  
15 a condition to be of use. Rafts and survivors in the  
16 water were then gathered together and a consultation  
17 was held amongst the officers. Another roll call was  
18 made and the names of those killed by machine gunning  
19 were as follows:"

20 I will omit the names of those killed and on the  
21 next page the names of those wounded, and begin reading  
22 at the third paragraph from the bottom of page 3:

23 "At 11:30 p.m. on 23 February 1944, Able Sea-  
24 man L. Morris, suffering from wounds as described above,  
25 lost his life by drowning. His wounds were such a



1 character that he had been rendered insane and efforts  
2 were made by survivors on the raft to restrain him. He  
3 proved to be too violent to hold and during the strug-  
4 gling evaded the others, jumped overboard and disappeared  
5 from view before rescue could be effected.

6 "On February 25, Friday, the engine rendered  
7 useless by seawater was dumped overboard and the occupants  
8 of the raft were transferred to the boat.

9 "The subsequent proceedings of this report were  
10 such as might be expected during a period of great  
11 hardship and suffering of 38 men cast adrift for 37 days  
12 in an overcrowded boat."

13 I will read no more from that document.

14 Document 8382, exhibit 2096: "Statement of  
15 P. H. Rees, Chief Engineer, M.V. Sutley, sunk 26 February  
16 1944." I will read the first three sentences:

17 "Vessel left Aden on Tuesday, 15th February  
18 1944, in convoy, bound for Australia. After being in  
19 convoy for 5 days we split up and continued the passage  
20 unescorted. Six days later (26 February) at 1820 hours  
21 we were struck by a torpedo between Nos. 1 and 2 holds  
22 on port side."

23 Dropping down slightly below the middle of the  
24 page:

25 "The submarine now appeared on the surface and

1 stopped our efforts to save more men (about 10 minutes  
2 after the sinking.) He came alongside and questioned us  
3 as to whether the master was amongst us, ship's name,  
4 destination and cargo. It was definitely a Japanese  
5 submarine, ocean-going type, mounting 6" gun and anti-  
6 aircraft armament. He attempted to ram all rafts and  
7 machine gunned us at random. His aiming was poor. The  
8 exhausts of the submarine were sparking badly and showed  
9 up against the darkness very clearly. He appeared to  
10 have good speed and maneuverability."

11 I will read no more from that document.  
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1 The next document, 8383, exhibit 2097, reads  
2 as follows:

3 "Report of attack of S.S. Ascot, sunk  
4 29 February 1944.

5 "S.S. Ascot left Colombo 19 February, 1944,  
6 bound for Diego Suarez, At 1205 (ship's time) gunners  
7 on watch sighted a torpedo close on the starboard beam,  
8 but before warning could be given, the torpedo struck  
9 the ship on the starboard side in the fore part of the  
10 engine room. The two starboard lifeboats were blown  
11 away, and as the ship appeared at first to be settling  
12 fast, the two port boats and a raft were got away. It  
13 is believed that four people, all engine and boiler room  
14 staff, were killed by first explosion. The remainder  
15 of the crew, believed 52, got safely away.

16 "The ship had by this time ceased to settle  
17 and ten minutes after abandoning a submarine was seen  
18 to surface about 2000 yards away from the ship, on the  
19 starboard quarter. The submarine circled the ship and  
20 commenced shelling her, firing about 7 rounds, but no  
21 effort was made to board.

22 "The submarine then approached the boats.  
23 She was about 300 feet long with a high conning tower  
24 which had square glass windows in the fore part, there  
25 is some difference of opinion as to whether the gun,

1 which was about 6" calibre, was forward or aft, but the  
2 weight of evidence tends to show that it was forward.  
3 It had a large 20 mm type gun fitted in a perspex  
4 blister in the side, and light machine-gun resembling  
5 a Bren, on top the conning tower. It was painted dark  
6 grey and was rusty and barnacled. There were no marks,  
7 but the survivors, on being shown photographs and  
8 silhouettes, all unhesitating picked out 1 - 121 - 124  
9 of Jap submarine.

10 "The survivors stated that all the men on the  
11 deck of the submarine were Japanese, dressed in khaki  
12 shirts and slacks, and soft Japanese type peaked caps.  
13 They also state that there was a European in the conning  
14 tower, wearing a European type of Naval cap, with yellow  
15 or gold wings in front.

16 "A Japanese in broken English asked for the  
17 Captain, Chief Engineer and Radio Officer but nobody  
18 replied. A burst of machine-gun fire was then fired.  
19 The Captain then disclosed his identity and was ordered  
20 on board the submarine. The Japanese who had first  
21 asked for him, took the despatch case, the Captain  
22 was carrying from saying, 'So you don't speak English,  
23 you English swine.' He then slashed the Master's  
24 hands across the palms with a knife and threw him into  
25 the water, where he was picked up by the lifeboat.



1 "Fire was then opened, with light machine  
2 gun in conning tower, on boats and raft, all the sur-  
3 vivors jumped into the water to avoid being hit, 10  
4 men around the raft were killed, also an unknown number  
5 in the boats. The submarine then left the boats and  
6 recommenced shelling the ship, which was by this time,  
7 blazing fiercely from stem to stern. About 30 rounds  
8 were fired.

9 "The survivors at this time got back into the  
10 boats and raft, buried the dead, and one lifeboat took  
11 the raft in tow. At 1600 approximately ship's times,  
12 the submarine returned to the boats and commenced  
13 machine gunning. The men on the raft, with the ex-  
14 ception of A. H. Richardson, DEMS, who was wounded in  
15 the thigh and was delirious, and Gunner Walker, Maritime  
16 Regt. who stayed to assist him, took to the water.  
17 Gunner Walker, with great courage, attempted to shield  
18 Richardson, and at the same time informed the men in  
19 the water as to the position of submarine to enable them  
20 to shelter behind the raft. Richardson was killed and  
21 Walker was hit twice, once in the leg and once in the  
22 thigh. He did not inform his mates of his wounds until  
23 the following morning and though in considerable pain,  
24 behaved with fortitude until picked up. I submit this  
25 act of gallantry should be suitably rewarded.

1 "The submarine machine-gunned the survivors  
2 intermittently until dusk, then disappeared and was not  
3 seen again.

4 "There were 7 men left on the raft at this  
5 time, and they cleaned, as much as possible, the blood,  
6 etc. off the raft, and hoisted sail. The following  
7 morning, March 1st, a lifeboat was sighted, but was soon  
8 lost to sight. On March 2nd, the lifeboat was again  
9 sighted, and came alongside at noon. It contained  
10 A.B. Hughson, DEMS, and as it was badly damaged, he  
11 transferred to the raft taking the provisions with him.

12 "At the time of the second machine gunning  
13 Hughson was in the boat with the Master and a number  
14 of others. He states that the other lifeboat was rammed  
15 and sunk by the submarine. After machine gunning the  
16 raft, the submarine approached the boat with the  
17 apparent intention of ramming it. All the boats crew,  
18 with the exception of Hughson, took to the water, where  
19 they were machine gunned. Hughson lay in the bottom of  
20 the boat and the submarine took it in tow alongside,  
21 apparently to prevent anyone re-boarding it. A Japanese  
22 boarded the boat, Hughson feigned death and was not  
23 molested. After about 10 minutes the boat was cut  
24 adrift and the submarine then rammed it on the port  
25 quarter, damaging it. Hughson lay quiet all night,



1 and the following morning hoisted the foresail, and  
2 though the boat was waterlogged, sailed her through the  
3 day in a freshening wind and sea.

4 "The following morning, the weather moderated  
5 and he hoisted the mainsail, sighted the raft and made  
6 contact, as stated above.

7 "I consider that Hughson showed courage and  
8 fine seamanship.

9 "The survivors were subsequently picked up  
10 by M.V. Straat Soenda, at 1325, March 3, 1944, and  
11 brought to Aden.

12 Signed: "L. A. Seward, Lieutenant Commander,  
13 R.N.R., Staff Officer, Intelligence."

14 Document No. 8379, exhibit 2098, excerpts  
15 read as follows, the top line:

16 "Statement of S. K. Chu, 2nd Mate, S.S. Nancy  
17 Moller, sunk March 18, 1944."

18 The fourth paragraph to the conclusion of  
19 the document:

20 "She (the submarine) approached one of the  
21 rafts on which were Gunlayers Fryers, 2nd Engineer  
22 H. T. Shing, Fitter Wong and three Indians. They were  
23 ordered to board the sub. Fryers was taken down for  
24 examination, and the remaining five were made to kneel  
25 down towards the bow. The 2nd Engineer was shot twice

1 with a revolver, and was kicked into the sea. As he  
2 wore no lifejacket he was soon drowned. Fitter Wong  
3 received one shot, and as he was wearing his jacket,  
4 he managed to struggle in the water and was finally  
5 picked up. The three Indians were merely driven into  
6 the water without being shot, so they were all rescued  
7 later on.

8 "Afterwards the Japs turned the portable machine  
9 gun towards the other rafts and opened fire. As the  
10 survivors were alert enough to hide their bodies under  
11 water with hands grasping the becket lines, nobody was  
12 known to be hit. The sub being satisfied that no life  
13 was left, drew away out of sight.

14 "Then we picked up and gathered together all  
15 the survivors, amounting to 32, (4 British, 2 Chinese,  
16 1 Russian, 25 Indians). The ship originally had a crew  
17 of 65, so with the Gunlayer as a prisoner on the sub  
18 another 32 persons (including the Captain lost their  
19 lives. (6 British, 5 Chinese and 21 Indians)

20 "The survivors drifted on the 4 rafts for  
21 four days, and were finally picked up on March 22nd,  
22 early morning."

23 Signed: "S. K. Chu, 2nd Mate, ex s/s Nancy  
24 Moller."

25 Document No. 8388, exhibit 2099, will be



1 read, excerpts therefrom, as follows; the first ten or  
2 fifteen lines:

3 "Statement of F. deJong, Chief Officer,  
4 S.S.Tjisalak, sunk 26 March, 1944.

5 "We sailed on the 7th March 1944 from the port  
6 of Melbourne in Australia with a full cargo of flour,  
7 about 6640 tons. Destination was Colombo. The ship  
8 was loaded on her tropical mark and the draft upon  
9 departure was --" I will omit the details here and  
10 start with:

11 "The crew consisted of 76 persons. Furthermore  
12 we had five first class passengers and 22 lascars as  
13 tweendeck passengers. Making a total of 103 persons  
14 on board. The 22 lascars being ex-crew of the M.S.  
15 Tjisadane on their way home after having been paid off  
16 from aforementioned ship. The first class passengers  
17 consisted of one American lady Mrs. Brittan. She was  
18 on the way to her husband who is living in Calcutta.  
19 Her husband is a Britisher and is apparently working  
20 for the Intelligence Service."  
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1 We omit and read beginning at page No. 3,  
2 about the middle of the page -- just below the  
3 beginning of the middle paragraph:

4 "In the meantime the sub came closer and  
5 closer. From the conning tower they started to shout  
6 for the captain. When they asked a second time where  
7 the Captain was I saw the Master stand up in his  
8 boat and put up his hand. They ordered him to come  
9 alongside of the sub with his boat. He did so. The  
10 next thing we spotted was the Captain and the Europeans  
11 in his boat boarding the sub. The boat of the 2nd  
12 Off. started to get away more and more. With a few  
13 men rowing in my boat I tried to get a little away  
14 from the sub. But now they started to gesticulate  
15 and shout from the tower. They shouted to us to  
16 report. So we came alongside one by one with our  
17 boats. They told the Europeans to board the sub. I  
18 did not see anything of the Europeans of the Captain's  
19 boat when I stepped on her deck. I only saw somebody  
20 disappearing into one of the manholes on the foredeck.  
21 With the 3rd Eng. I was the first one to be pointed  
22 out to the fore deck. They told us to sit down there  
23 facing forward. We should in no case look back they  
24 told us. From all around they kept us covered.  
25 When I boarded the sub they took my knife away. I



1 had my lifebelt on and luckily they forgot to take  
2 that away. My papers were packed in the inside of  
3 my lifebelt and they did not spot it. The foreship  
4 started to fill up as they were ordering now all the  
5 people out of the boats. Two Japs were making us  
6 stand by in front of us, one with a revolver and one  
7 with a coil of rope. Again and again they shouted  
8 from the tower, 'Do not look back, because that will  
9 be too bad for you.' I got the impression that there  
10 was little discipline. Everybody just pleased himself  
11 and they all tried to get as many souvenirs as possible.  
12 So they took watches, papers and knives. A little to  
13 the right before me was the 5th Eng. sitting. A little  
14 to the left and forward was the 3rd Eng. I got the  
15 impression that the Japs wanted to start all kinds of  
16 things at the same time. One was preparing himself to  
17 tie us up, another was fumbling with his revolver  
18 and so on. Most of our crew did not obey the order  
19 of not looking back. They continuously looked back.  
20 I warned them a few times to look forward. I thought  
21 it better not to irritate the Japs any more. I  
22 understood the end was there for all of us, and I  
23 told the Europeans near me. I told them to try to  
24 make the best of it. All of us sat down depressed.  
25 I felt pity for the 5th Engineer, as he was fighting,

1 I could see, to keep himself under control, but he  
2 succeeded. It was a hard blow for him I thought.  
3 He had just escaped out of occupied Holland and he  
4 was very young. My own feelings were dumb. I had  
5 finished with life and I felt abnormally calm. I  
6 was surprised about myself, as I had grown a bit  
7 nervous after a whole winter on the North Atlantic with  
8 a few very bad experiences. During the time I was  
9 on board of the sub, I was very proud of every  
10 member of our crew, as I heard nobody screaming or  
11 begging for life. The Japs can take this as an  
12 example. There were a few fights going on behind us,  
13 but I do not know the exact facts as I did not look  
14 behind me. Waiting was long. At last the sub was  
15 getting under way and after clearing the wreckage  
16 headed on a course East. I know this because the sun  
17 was shining in my face. I guessed the speed at about  
18 8 knots, but it could have been less. The other  
19 survivors thought it was less anyhow. I was thinking  
20 now about jumping overboard, but I was surrounded by  
21 Chinese and I thought I had only a very small chance.  
22 So I decided to stay and wait. What would happen now?  
23 Would they start to machinegun us from the tower?  
24 Would they tie us up and then dive? It was very  
25 difficult to guess. To wait all the time was unbearable.



1 Luckily they started now. They called the 5th Eng.  
2 out and told him to start walking aft. When he was  
3 aft they shot him. Now it was my turn. One Jap  
4 was hanging on to my back when I walked aft. Maybe  
5 he wanted to pull off my lifebelt, maybe he wanted  
6 to prevent me from jumping overboard. Everywhere Japs  
7 were standing by with weapons. I realized that to  
8 dive with my lifebelt on would be very difficult and  
9 my chance was nil as I could not keep myself under  
10 with same. Whenever I should come into the water I  
11 would be riddled with bullets and probably die slowly.  
12 As I had to die anyhow I preferred a sudden death. So  
13 I walked on, along the tower and on aft. At about a  
14 distance of about 5 or 6 feet from the stern there  
15 was one Jap ready with his revolver. When I came  
16 alongside of him I stopped as I expected him to shoot  
17 me through the head. He pointed out to me however  
18 that I had to carry on. When I arrived at the very  
19 end of the deck, above the propellers I heard a bang  
20 and felt a terrific shock on my head and I toppled  
21 over into the water. The Japs tried to make a good  
22 job of it indeed, as they did it above the propellers.  
23 How I missed them I do not know. I must have been  
24 unconscious for a little while. When I came to I  
25 was in the water, with plenty of blood around me.

I had plenty of trouble to breathe. Heavy sighing gave me just enough. I spotted the sub now at about a mile distant. After a couple of minutes I could breathe and think a little better already. I was very down. I was afraid they would find out on the sub that I was still alive and come to finish me off. To be executed once is pretty bad, but for a second time looked horrible to me. I inspected my head with my hand and found no hole in the bone. This gave me some new courage. I started to get hope again to live on. Now I decided to try everything in my power to save my life. I kept the submarine all the time in my sight and I saw her altering course a few times. Twice she passed me at close range and I nearly drowned by keeping my head under the surface. I could still see a group of persons on the foredeck of the sub. Now and then I heard a couple of shots. At the end I saw the sub disappear to the South."

A final extract on page 8, at the bottom of the page, about 6 lines from the bottom.

"After this case of our ship I think everybody will be impressed by the fact that it is impossible to send ships unprotected anymore over the Indian Ocean. We should have some protection so that the Japs cannot repeat this slaughtering of shipwrecked people."



1 There can be planes in any case. I have heard there  
2 is even a base for planes on the Chagos Islands, and  
3 also one on the Maldiv Islands. If this is true the  
4 planes could cover a big part of the Indian Ocean.  
5 Even close to Australia and Colombo we never spotted  
6 any planes. I just wanted to put down our thoughts  
7 as I think it is better if the officials knew what we  
8 think."

9 The next document, 8472, exhibit No. 2100,  
10 is the chart on which is shown the location of the  
11 sinking of the ships, survivors of which I have just  
12 read statements upon.

13 Now, to take up the protests: Prosecution  
14 document No. 8395, a note from the Swiss Legation to  
15 the Japanese Foreign Minister, dated 16 September  
16 1944 is offered in evidence.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution document  
19 No. 8395 will receive exhibit No. 2101.

20 (Whereupon, the document above  
21 referred to was marked prosecution's ex-  
22 hibit No. 2101 and received in evidence.)

23 CAPTAIN ROBINSON: This document reads as  
24 follows:  
25

"September 16, 1944

1 There can be planes in any case. I have heard there  
2 is even a base for planes on the Chagos Islands, and  
3 also one on the Maldive Islands. If this is true the  
4 planes could cover a big part of the Indian Ocean.  
5 Even close to Australia and Colombo we never spotted  
6 any planes. I just wanted to put down our thoughts  
7 as I think it is better if the officials knew what we  
8 think."

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15 the Japanese Foreign Minister, dated 16 September  
16 1944 is offered in evidence.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution document  
19 No. 8395 will receive exhibit No. 2101.

20 (Whereupon, the document above  
21 referred to was marked prosecution's ex-  
22 hibit No. 2101 and received in evidence.)

23 CAPTAIN ROBINSON: This document reads as  
24 follows:  
25

"September 16, 1944



1 "By letters of 5 and 20 June, the Swiss  
2 Minister had the honour of transmitting to His  
3 Excellency Mr. Mamoru SHIGEMITSU a protest of the  
4 Government of the United Kingdom on the subject of the  
5 attack on the survivors of British merchant vessels  
6 by Japanese submarines. By the note of 19 July the  
7 Legation sent to the Imperial Foreign Office some  
8 complementary information about this matter.

9 "The Swiss Legation would be thankful to the  
10 Foreign Office if the Foreign Office would communicate  
11 the answer of the Imperial Government to the said  
12 protest.

13 \* \* \*

14 "September 15, 1944

15 "To the Imperial Ministry of Foreign Affairs,  
16 Tokyo."

17 Prosecution document No. 8416, a note from  
18 the Swiss Minister to the accused SHIGEMITSU, Japanese  
19 Minister of Foreign Affairs, dated 28 November 1944,  
20 is offered in evidence.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution document  
23 No. 8416 will receive exhibit No. 2102.

24 (Whereupon, the document above  
25 referred to was marked prosecution's ex-

hibit No. 2102 and received in evidence.)

1           CAPTAIN ROBINSON: A correction: This is  
2 from the Japanese to the Swiss it is observed. I  
3 will read the document:

4           "My dear Minister,

5           "I have the honor to acknowledge the receipt  
6 of Your Excellency's letters. No. GG.I.I.3-EGd and  
7 No. GG.I.I.3-EGc dated 5 and 20 June as well as the  
8 verbal note No. CC.1.8.o-EGc, of the Swiss Legation  
9 in Tokyo dated 19 of last July concerning a protest  
10 of the British Government which pretends that in the  
11 Indian Ocean some Japanese submarines torpedoes  
12 British merchant vessels and unlawfully attacked the  
13 survivors of the vessels.

14           "Concerning this matter I have had the competent  
15 authorities make strict investigations in each case  
16 indicated; and it is clear that Japanese submarine  
17 at least, had nothing to do with such facts as are  
18 mentioned in that protest. I have the honor to ask  
19 Your Excellency to forward this reply to the British  
20 Government.

21           "I take this opportunity," and so forth, dated  
22 28 November 1944.

23           "From: Minister for Foreign Affairs, Mamoru  
24 SHIGEMITSU (Seal)

25           "To: His Excellency Camille Gorge, Envoy



1 Extraordinary and Minister Plenipotentiary from  
2 Switzerland."

3 Prosecution document No. 8410, a letter  
4 from the Swiss Minister, transmitting from the  
5 Government of the United Kingdom a communication  
6 to the Japanese Foreign Minister, dated 19 May 1945  
7 is offered in evidence.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Prosecution document  
10 No. 8410 will receive exhibit No. 2103. .

11 (Whereupon, the document above  
12 referred to was marked prosecution's ex-  
13 hibit No. 2103 and received in evidence.)  
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1                   CAPTAIN ROBINSON: (Reading)

2                                 "Karuizawa, May 19, 1945

3                   "Monsieur le Ministre,

4                   "I have the honor of informing Your  
5 Excellency that I had not failed to communicate to  
6 my Government for forwarding to the Government of  
7 the United Kingdom the answer of the Imperial Govern-  
8 ment which His Excellency Mr. Mamoru SHIGEMITSU gave  
9 me on the subject of attacks against the survivors  
10 of British merchant vessels by Japanese submarines.

11                   "The Government in London has just asked  
12 the Federal Authorities to send to the Imperial  
13 Government the following communication:

14                   "'Primo. Government of United Kingdom have  
15 received through protecting power Imperial Japanese  
16 Government's reply to their protest regarding inhuman  
17 conduct of commanders and crews of certain Japanese  
18 submarines towards crews of torpedoed British merchant  
19 vessels. In this reply Imperial Japanese Government  
20 deny all knowledge of the facts mentioned in H.M.  
21 Government's communication.

22                   "'Secundo. H. M. Government find this reply  
23 entirely unacceptable. In all cases mentioned in  
24 H.M. Government's protest there were survivors who  
25 positively identified submarine concerned as Japanese.



1 Moreover in one instance the submarine was identified  
2 as belonging to the Japanese I class.

3 "Tertio. H. M. Government desire further  
4 to draw attention of the Imperial Japanese Government  
5 to an operation order dated 20th March 1943 issued by  
6 Admiral commanding first Japanese Submarine Force.  
7 Fifth paragraph of this order authorizes submarine  
8 commanders not to stop with sinking of allied ships  
9 and cargoes but at the same time to carry out complete  
10 destruction of allied crews except for such members  
11 as it may be desirable to apprehend with a view to  
12 securing intelligence. This order makes it clear  
13 beyond any possibility of doubt that the inhuman  
14 practices described in H. M. Government's protest are  
15 officially sanctioned and prescribed by high Authorities  
16 of Japanese Navy.

17 "Quarto. H. M. Government desire once again  
18 to draw most serious and urgent attention of the Im-  
19 perial Japanese Government to these atrocities committed  
20 by Japanese submarine commanders and crews and sanctioned  
21 by Japanese Naval authorities against crews of British  
22 merchant vessels and to demand that such inhuman prac-  
23 tices cease forthwith and that strictest disciplinary  
24 measures be taken against both individual commanders  
25 responsible and Naval Authorities who prescribed these

1 actions.'

2 "Please accept, Monsieur le Ministre, the  
3 assurances of my very high respect.

4 "Swiss Minister."  
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1           CAPTAIN ROBINSON: Prosecution document  
2 No. 8481, an official report of the killing of  
3 survivors of the British ship, Behar, in the Indian  
4 Ocean, sworn to on 30 May 1946, is offered in evidence.

5           THE PRESIDENT: Admitted on the usual terms.

6           CLERK OF THE COURT: Prosecution's document  
7 No. 8481 will receive exhibit No. 2104.

8                   (Whereupon, the document above  
9 referred to was marked prosecution's exhibit  
10 No. 2104 and received in evidence.)

11           CAPTAIN ROBINSON: The excerpts to be read  
12 appear at page two and three; at page two the second,  
13 third and fourth paragraphs:

14                   "I was formerly a Captain in the Imperial  
15 Japanese Navy.

16                   "I held the appointment of a Commander on  
17 the Crusier Tone, Captain MAYUZUMI commanding, in  
18 early 1944.

19                   "On 9 March 1944, S. S. Behar was sunk by  
20 gunfire from Tone."

21                   Dropping down four paragraphs:

22                   "Later in the day, after we had reported the  
23 sinking of the Behar and the picking up of 115 sur-  
24 vivors, the Aoba signalled us to arrange for the immed-  
25 iate disposal of the prisoners with the exception of



1 two or three. I told the Captain that such a course  
2 was inhuman and that I could not be a party to the  
3 execution especially in view of the fact that I had  
4 ordered the rescue of the survivors and saw to it  
5 that the order was carried out in spite of the high  
6 seas running. The Captain signalled the Aoba that  
7 the prisoners were still under investigation."

8 Omitting down to the close of the affidavit,  
9 the last three paragraphs preceding the final paragraph  
10 on page 3, beginning:

11 "On the evening of 18th of March, I was  
12 told by Captain MAYUZUMI that the execution of the  
13 prisoners had to be carried out that night at sea.  
14 I refused to be associated with the execution so  
15 the Captain issued orders direct to Lt. ISHIHARA.

16 "I cannot remember the names of the members  
17 of the execution party, but learnt that most of them  
18 were gunroom officers. Lt. TANI and a few other  
19 wardroom officers were in the party. I later heard  
20 Sub-Lieutenants TANAKA and OTSUKA boasting of their  
21 participation in the execution.

22 "As I was not a witness I could not describe  
23 the exact methods used but heard that the prisoners  
24 were knocked unconscious by a jab in the stomach,  
25 kicked in the testicles and beheaded."



1 Prosecution document No. 548, a top secret  
2 Japanese naval order for submarine operations in the  
3 Indian Ocean, is offered in evidence.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document  
6 No. 548 will receive exhibit No. 2105.

7 (Whereupon, the document above  
8 referred to was marked prosecution's exhibit  
9 No. 2105 and received in evidence.)

10 CAPTAIN ROBINSON: I should read at the top  
11 of page 2, if the language section can follow -- top  
12 of page 2: "JICPOA Item #5738 - Translation of  
13 Captured Japanese Document, Captured Kwajalein Atoll,  
14 Received JICPOA 19 February 1944 --

15 THE MONITOR: Just a minute, Captain, that  
16 part is not given. The Japanese translation starts  
17 from "Flagship Heian Maru at Truk." You see the other  
18 explanatory note about whose translation it is is not  
19 given in Japanese.

20 CAPTAIN ROBINSON: If you will start from  
21 "Flagship Heian Maru at Truk, 20 March 1943 -- Military -  
22 Ultra-Secret (Gunki), Copy 24 of 70 -- 1st Submarine  
23 Force Secret Opord #2-43" -- the only extract that  
24 needs to be read from this document is on page 4,  
25 paragraph B, subparagraph 4, near the bottom of the

1 page which reads as follows:

2 "Do not stop with the sinking of enemy  
3 ships and cargoes; at the same time that you carry  
4 out the complete destruction of the crews of the  
5 enemy's ships, if possible, seize part of the crew  
6 and endeavor to secure information about the enemy."

7 The last document in this section is document  
8 No. 8479. The liaison between Japan and Germany in  
9 this policy of destruction in the Indian Ocean is  
10 indicated by the interrogation of the defendant OSHIMA,  
11 1 February 1946, prosecution document No. 8479. The  
12 defendant OSHIMA has sent me a supplementary state-  
13 ment and I have told OSHIMA's counsel, Mr. Cunningham,  
14 that the statement is available for processing and use  
15 by them as they may desire but I should like to offer  
16 this document in evidence at this time.

17 THE PRESIDENT: Admitted on the usual terms.

18 MR. SHIMANOCHI: Mr. President, I object to  
19 the presentation of this document, prosecution document  
20 No. 8479. I have two grounds for my objection.

21 First, I respectfully call the Tribunal's  
22 attention to lines 20 to 33 of page 6 of the English  
23 copy. This shows that when OSHIMA was interrogated by  
24 Captain Robinson his memory was not quite clear and I believe  
25 it is shown that Captain Robinson also recognized that



1 OSHIMA's recollection was hazy.

2 Second, according to the memorandum pre-  
3 sented by the defendant OSHIMA, we object to the  
4 presentation of this document until it is either  
5 given to us for our use or presented to the Court  
6 before its use by the prosecution. A correction on  
7 the last statement: I object to the presentation of  
8 this document as evidence unless the prosecution pre-  
9 sents this memorandum from OSHIMA as evidence. The  
10 reason for this is that since OSHIMA wrote this  
11 memorandum, because his recollection was not clear  
12 it would be unfair to present document 8479 without  
13 presenting the memorandum.

14 THE PRESIDENT: The objection is overruled  
15 on both grounds. The first ground goes to weight  
16 only or value and not to admissibility. The second  
17 is a matter for the defense to establish when they  
18 give evidence.

19 The document is admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document  
21 No. 8479 will receive exhibit No. 2106.

22 (Whereupon, the document above  
23 referred to was marked prosecution's exhibit  
24 No. 2106 and received in evidence.)

25 CAPTAIN ROBINSON: This document reads in

1 part as follows, page 1, title, first three paragraphs:

2 "Interrogation of General Hiroshi OSHIMA.

3 "Date and time: 1 February 1946.

4 "Questions by Captain Robinson:

5 "Q You had various conversations, General,  
6 with Ribbentrop in regard to the naval activities of  
7 Germany and Japan?

8 "A Naturally, I spoke to Ribbentrop about  
9 many matters, among which these that you refer to  
10 might have been included. However, actual Army  
11 matters and Navy matters were always handled by the  
12 respective attaches.

13 "Q Directing your attention to March 1943,  
14 what was said by you and by him in regard to the  
15 importance of the submarine warfare?

16 "A I do not know whether it was this meeting  
17 or not, but I do recall where he suggested that Japan  
18 institute submarine warfare as Germany had been doing,  
19 and in this regard they would be willing to let us  
20 have a new type German submarine.

21 "Q In fact they sent you two German subma-  
22 rines, did they not?

23 "A Yes. The negotiations were done by me,  
24 but the details were handled by the Japanese Navy, and  
25 I believe that one of the submarines was sunk before



1 arriving in Japan."

2 Turning to page 2, paragraphs 5 and 6:

3 "Q And he discussed with you the difficulty  
4 of cutting down not only the supply of merchant ships,  
5 but also of merchant sailors to man those ships, did  
6 he not?

7 "A Yes, I definitely remember.

8 "Q And he discussed with you the German  
9 U-Boat order of September 1942, in regard to failing  
10 to rescue survivors of torpedoed merchant vessels?

11 "A Yes, I recall hearing that."

12 Turning to page 3, paragraphs 3, 4, and 5:

13 "Q And you recall further that the orders  
14 were to annihilate or destroy survivors?

15 "A I would not go so far as to say that,  
16 essentially it was that they would not rescue survivors.

17 "Q He was not recommending that to you as a  
18 policy for submarines? That would be merely ordinary  
19 practice, not to rescue survivors. The only place  
20 where his orders would be important and therefore  
21 subject to a special policy statement by Ribbentrop  
22 would be in the fact that these special orders differed  
23 from ordinary practice in that the special orders pro-  
24 vided for the complete destruction of the survivors  
25 of the merchant vessel's crew and passengers. I want

1 the connection between this German order and the  
2 same order as followed by the Japanese.

3 "A I do think that the German order went  
4 so far as to say that. In fact, I naturally think  
5 so. The Japanese one, I do not know about. I believe  
6 that the Japanese would not put out such an order.  
7 And further, the newspapers have it that I favored  
8 this order, but that is not so. Of course, I did  
9 not tell Ribbentrop that he should stop doing this,  
10 as it wasn't any of my business, but I do say that  
11 I did not encourage it. Of course, as you know,  
12 this order was put out, but I believe that even  
13 among the Germans there were those who opposed it.

14 "Q And some who carried it out and executed  
15 it?

16 "A Admiral Gross, who was naval liaison  
17 officer to us, told me that he did not favor this  
18 order, as it was a blot on the honor of the Navy.

19 "Q Nevertheless, at the request of the  
20 Germans you did convey to the Japanese submarine  
21 authorities information of that operating policy,  
22 namely, complete destruction of personnel, as well as  
23 the ship?

24 "A I did tell it to the Naval Attache, "  
25 but I have no recollection of having sent any despatches



1 to Japan about this matter."

2 Page 4, paragraphs 3, 4, 5, and 6 -- no,  
3 the second paragraph, page 4, starting:  
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1 "Q Did the Germans never ask you whether you  
2 had followed through or not?

3 "A No. Although you probably know more about it  
4 than I do, I do not believe Japan did anything about  
5 it.

6 "Q You know, do you not, that the United States  
7 State Department filed with the Japanese numerous  
8 protests because that precise policy was carried out  
9 against the crews of the United States merchant  
10 vessels?

11 "A No, I do not recall any protests on that  
12 matter, although I am aware that they protested many  
13 times about the treatment of prisoners of war.

14 "You never had any information following that  
15 date of the machine gunning of merchant seamen  
16 following the torpedoing by Japanese submarines of  
17 United States merchant ships?

18 "A No. I have not heard anything of the sort.

19 "Q And you did not know that an ultra-secret  
20 operating order was issued to Japanese submarines  
21 commanders on March 20, 1943, as well as on other  
22 dates, in which paragraphs b, item 4, provided,  
23 'Do not stop with the sinking of enemy ships and  
24 cargoes. At the same time as you carry out the  
25 complete destruction of the crews of the ships,



1 seize part of the crew and endeavor to secure infor-  
2 mation about the enemy.'

3 "A No. I do not know of the order, and further,  
4 if there had been such an all-secret order it would  
5 not have come into the hands of a civil official such  
6 as me.

7 "Q You do recognize in those words the same  
8 order of which you were informed by the Germans?

9 "A Yes, they are alike. I believe that if  
10 such an order had been issued by the Japanese Navy  
11 they would have done it independently, for, as you  
12 know, the Japanese Army and Navy are not in the habit  
13 of taking suggestions from outside sources, and if  
14 Japan had followed the German suggestion on this and  
15 put out such an order a communication should have  
16 come to me saying that they had done so, but I received  
17 no such communication. I have not heard of there  
18 having been any communication and if there had been  
19 it would have gone with the Naval Attache to pass on  
20 to the German Navy."

21  
22 Page 5, the top four paragraphs and the  
23 bottom two paragraphs:

24 "Q Do you know whether or not with these two  
25 submarines which Germany sent to Japan she also sent  
crews and specimen orders for use by the Japanese?

1 "A No, I know nothing whatsoever about what  
2 happened subsequent to my talks, as it was all  
3 handled by the Navy.

4 "Q Did the Germans draw particular attention to  
5 the necessity of Japanese submarines operating in the  
6 Indian Ocean against merchant shipping?

7 "A The matter was not spoken of to me, but I  
8 do recall some talk of the German Nav. having spoken  
9 to Admiral NOMURA about this matter.

10 "Q Did you later learn of the sinking of the  
11 United States Liberty Ship Jean Nicolet on 2 July  
12 1944, in the Indian Ocean by a Japanese I-class sub-  
13 marine, in which sinking these tactics were carried  
14 out?

15 "A I know nothing of it.

16 "Q Did not Ribbentrop or other Germans later  
17 comment to you on the fact that their request to you  
18 for such a submarine campaign appeared to be bearing  
19 fruit?

20 "A No. Further, I believe Japan was not very  
21 successful in her submarine warfare."

22 Dropping down to the bottom of the same page:

23 "Q Two questions and I am through: 1. By  
24 'intensify submarine warfare' you include destruction  
25 of survivors of ~~the~~ torpedoed vessels, do you not?



1 "A No. I do not believe this would be in-  
2 cluded in intensification of submarine warfare. I  
3 am not a naval expert, but I do not believe these  
4 tactics should be used.

5 "Q What you believe and I believe does not  
6 make any difference. We have your statement of  
7 what the German proposal was, namely, the destruction  
8 of survivors of the crews. We have your statement  
9 that Ribbentrop and others did tell you that part of  
10 their submarine warfare had adopted a policy of  
11 destroying crews of torpedoed vessels, is that not  
12 correct?

13 "A Yes, Ribbentrop did say that to me.

14 "Q And further that you did convey that infor-  
15 mation to Japanese naval authorities?

16 "A I conveyed to the Naval representatives  
17 the matter of the two submarines that they offered  
18 to give us, and the request that we intensify sub-  
19 marine warfare, but whether I actually spoke to them  
20 about this order that you are stressing I do not re-  
21 call, as I never felt that the order was anything  
22 that should be followed. In this regard I would  
23 wish that you speak to either NOMURA or YOKOI to  
24 see whether I did convey this to them or not."

25 Page 6, the bottom paragraph, to the end of

page 7:

1 "A I wish to explain this one fact; that in  
2 December 1941, a joint military commission was set up  
3 which decided matters of tactics and operations and  
4 I had no hand in this. Further, if Ribbentrop or  
5 someone like that told me something military, I  
6 passed this matter on to this military commission which  
7 went into details, and they are the ones who are re-  
8 sponsible for the carrying out of the operations.  
9

10 "Q What are their names?

11 "A These are the aforementioned NOMURA, YOKAI  
12 for the Navy, and Lt. Gen. BANZAI for the Army.

13 "Q The date of the appointment of this Com-  
14 mission?

15 "A About the middle of December 1941.

16 "Q And the place?

17 "A Berlin. All important matters were decided  
18 by them.

19 "Q Who were the German members?

20 "A I am not sure, but I believe it was Field  
21 Marshal Keitel, and probably Admiral Doenitz."  
22  
23  
24  
25



1 MR. SHIMANOCHI: I especially call the  
2 attention of the Tribunal to the English text of the  
3 document just read, page 3, line 7 to 22, and page  
4 5, line 25 to 37. In these parts OSHIMA states that  
5 he was against the murder of the ships' crews and  
6 also that he did not convey the suggestion of the  
7 German side to the Japanese Navy.

8 THE PRESIDENT: We know what he said, and  
9 there is no need for you to emphasize it.

10 CAPTAIN ROBINSON: May it please the Tri-  
11 bunal, this concludes the presentation of evidence  
12 of offenses against survivors of torpedoed ships.

13 It is now proposed to present evidence to  
14 show offenses committed against prisoners of war at  
15 Puerta Princesa, Palawan, Philippine Islands on  
16 14 December 1944. This evidence will consist of the  
17 testimony of one of the survivors of the Palawan  
18 Massacre, documents consisting of affidavits of two  
19 of the survivors, and protests delivered to the  
20 defendant TOGO. Reference is made to two prosecution  
21 documents which have been introduced as exhibits,  
22 as follows:

23 Prosecution document No. 2869, exhibit  
24 No. 1455, a summary of the testimony reported to  
25 the Judge Advocate General of the United States on

1 this atrocity, was introduced on 12 December 1946  
2 and is quoted in part at pages 12,669 to 12,672 of  
3 the record.

4 Prosecution document No. 10-V, exhibit No.  
5 1485, a copy of the protest transmitted by the  
6 Swedish Legation to the Japanese Foreign Minister,  
7 dated 19 May 1945, based on the Palawan Massacre,  
8 was introduced on 13 December 1946 and is quoted in  
9 part, its first two paragraphs, at pages 12,814 to  
10 12,817 of the record. The last two paragraphs of  
11 this protest read as follows:

12 The first two paragraphs, I take it, may  
13 be before the Court, the first part of the protest  
14 on Palawan, exhibit 1485, in which the State Depart-  
15 ment calls attention to the massacre of December 14,  
16 1944 of one hundred fifty American prisoners of war  
17 at Puerto Princessa. I will not re-read those para-  
18 graphs unless the Court would care to have them re-  
19 peated.

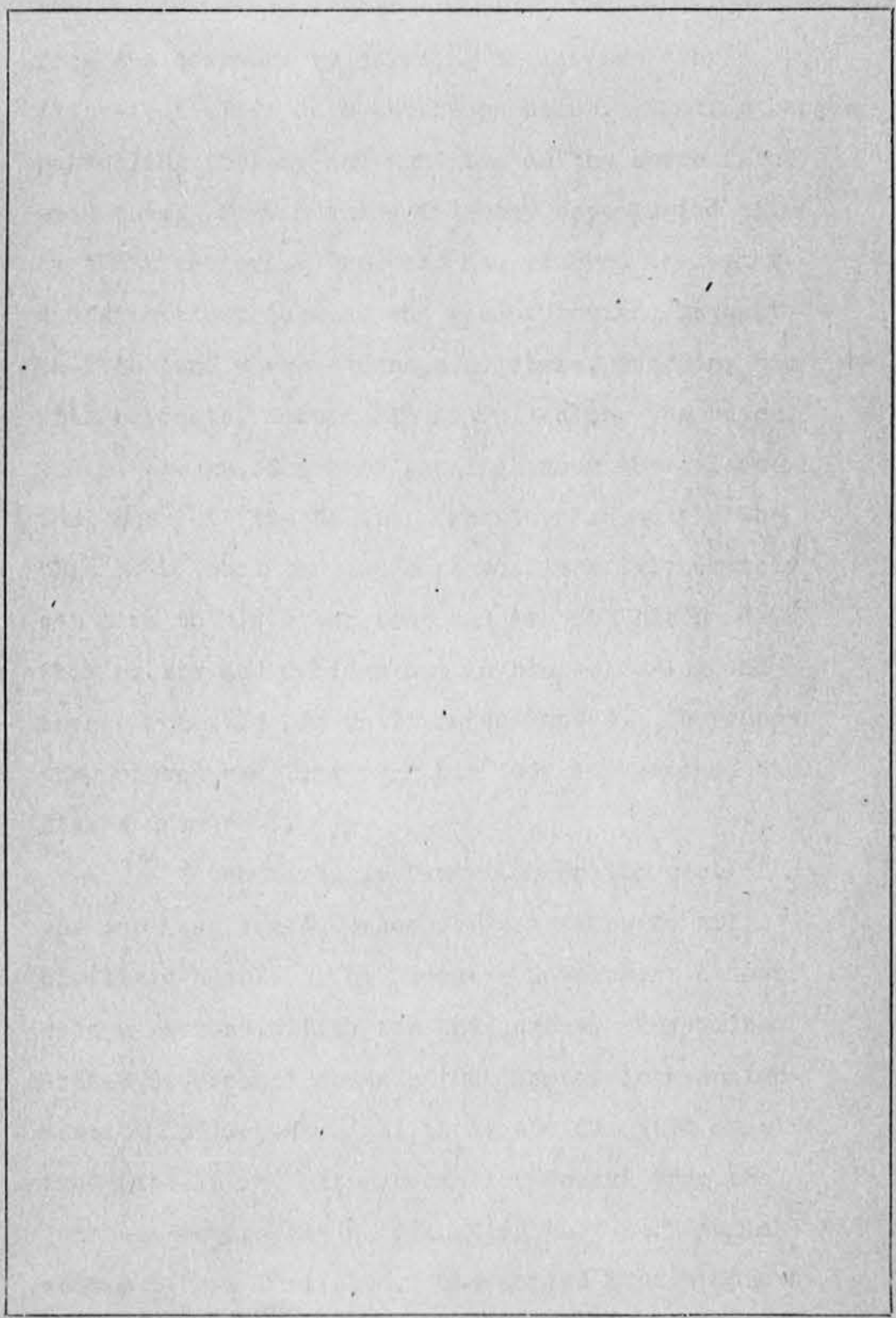
20 THE PRESIDENT: There is no need to repeat  
21 it.

22 CAPTAIN ROBINSON: At page 2 of this pro-  
23 test, parts not read into the transcript are the  
24 following paragraphs:

25 "About forty prisoners succeeded in escaping



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1 from the compound by throwing themselves over a  
2 fifty-feet cliff onto the beach below. Landing barges  
3 patrolling the bay and sentries on the shore fired  
4 upon them. Many moaning in agony were buried alive  
5 by their captors. One, who had reached the water  
6 and struck out to sea, was recaptured and brought  
7 back to land where Japanese soldiers, prodding him  
8 with bayonets, forced him to walk along the beach.  
9 A Japanese guard poured gasoline upon the prisoners  
10 foot and set fire to it. Ignoring his entreaties  
11 that he be shot the Japanese soldiers deliberately  
12 set fire to his other foot and to both his hands.  
13 They mocked and derided him in his suffering and  
14 then bayoneted him until he collapsed. Thereupon  
15 they poured gasoline over his body and watched the  
16 flames devour it.

17 "Such barbaric behaviour on the part of  
18 the Japanese armed forces is an offence to all  
19 civilized people. The Japanese Government cannot  
20 escape responsibility for this crime. The United  
21 States Government demands that appropriate punish-  
22 ment be inflicted on all those who directed or par-  
23 ticipated in it. It expects to receive from the  
24 Japanese Government notification that such punish-  
25 ment has been inflicted. The United States Govern-



1 ment further demands that the Japanese Government  
2 take such action as may be necessary to forestall  
3 the repetition of offenses of so heinous a nature  
4 and assure the United States Government that such  
5 outrages will not again be inflicted upon American  
6 prisoners of war in Japanese custody.

7 "GREW

8 (Acting)"

9 Prosecution document No. 8454, a protest  
10 and note with a declaration of delivery by the Swiss  
11 Legation to the defendant TOGO, dated 3 and 4 June,  
12 1945. This protest, note and declaration are offered  
13 in evidence.

14 THE PRESIDENT: Admitted on the usual terms.  
15 We will recess for fifteen minutes.

16 (Whereupon, at 1445, a recess was  
17 taken until 1500, after which the proceed-  
18 ings were resumed as follows:)  
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1 MARSHAL OF THE COURT: The Tribunal is now  
2 resumed.

3 THE PRESIDENT: Captain Robinson.

4 CAPTAIN ROBINSON: Mr. President and Members  
5 of the Tribunal, I understood that document 8454 was  
6 admitted at the close of the last session, but I  
7 did not get the exhibit number assigned by the Court.

8 CLERK OF THE COURT: Prosecution's docu-  
9 ment No. 8454 will receive exhibit No. 2107.

10 (Whereupon, the document above  
11 referred to was marked prosecution's  
12 exhibit No. 2107 and received in evidence.)

13 CAPTAIN ROBINSON: This document, page 1,  
14 reads as follows:

15 "Legation de Suisse

16 "Au Japon . . .

17 "Declaration

18 "The note" and so forth "dated June 3rd  
19 1945, copy of which is hereto attached, containing  
20 a notification of the United States government for  
21 the Japanese government, as communicated to the  
22 Legation of Switzerland in Tokyo by the Division for  
23 Foreign Interests in Berne with their cable no. 423  
24 and pertaining to the treatment of American prisoners  
25 of war in Puerto Princesa, Palawan (Philippine Islands),



1 was handed over personally by the Minister of Switzer-  
2 land, to H. E. Mr. Shigenori TOGO, Minister for  
3 Foreign Affairs, at his private home in Karuizawa,  
4 on Sunday, June 3rd 1945, at 3 p.m.

5 "Karuizawa, June 5th, 1945."

6 At page 2: "June 4, 1945

7 "Pursuant to its note of May 30th last  
8 concerning the massacre of 150 American prisoners  
9 of war at Puerto Princesa, Palawan, the Swiss Lega-  
10 tion has the honour to inform the Imperial Ministry  
11 of Foreign Affairs that the government of the USA  
12 has requested the federal authorities to present to  
13 the Imperial Government the following notification:

14 "The United States government refers to  
15 its protest regarding the massacre of 150 prisoners  
16 of war at Puerto Princesa, Palawan, Philippine  
17 Islands and further charges the Japanese government  
18 in its administration of that camp that it has most  
19 shamefully violated its commitment to apply to  
20 American prisoners of war in its custody the humani-  
21 tarian standards of the Geneva Prisoners of War  
22 Convention. During their incarceration in the camp,  
23 the prisoners were subjected to the following mis-  
24 treatment."

25 I omit the nine paragraphs, down to the

1 last paragraph on page 3, of the quoted portion.

2 "The United States government repeats that  
3 it expects the Japanese government to impose upon  
4 those responsible for the maltreatment of American  
5 prisoners of war the punishment which their criminal  
6 behaviour merits and demands that the Japanese govern-  
7 ment take all necessary steps to compel its subjects  
8 to fulfil the obligations assumed by it to accord  
9 humane treatment to prisoners of war. The United  
10 States government expects an early reply by the  
11 Japanese government as to the action taken by it to  
12 punish the individuals responsible of the brutal  
13 acts described herein and the measures it has taken  
14 to prevent similar acts of cruelty in camps in which  
15 American nationals are detained."

16 Prosecution document No. 8457, a note from  
17 the Swiss Legation to the Japanese Foreign Minister,  
18 dated 7 June 1945, is offered in evidence.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's docu-  
21 ment No. 8457 will receive exhibit No. 2108.

22 (Whereupon, the document above  
23 referred to was marked prosecution's  
24 exhibit No. 2108 and received in evidence.)

25 CAPTAIN ROBINSON: This note reads as



1 follows:

"Karuizawa 6 June 1945. . ."

2  
3 "My dear Minister,

4 "The first of June I forwarded to you by  
5 Mr. Bossi, Legation Attache at Tokyo, a notifica-  
6 tion from the government of the United States of  
7 America addressed to the Imperial Government con-  
8 cerning the deaths of 150 American prisoners of war  
9 at Puerto Princesa, Palawan.

10 "In the meantime, I have received a second  
11 notification from the government of the United  
12 States concerning the treatment of the prisoners of  
13 war in that camp at Puerto Princesa. As I was to  
14 meet Mr. TOGO Sunday, I took advantage of that oppor-  
15 tunity to personally give him the second complaint  
16 of the government of the United States. I explained  
17 to him that I had sent the first protest to you."  
18 And so forth.

19 "With my best regards, my dear Minister."

20 Addressed to His Excellency, Minister  
21 Tadakazu SUZUKI, Imperial Ministry for Foreign  
22 Affairs, and so forth.

23 The same announcement as made before is  
24 that the SUZUKI mentioned here is not the accused  
25 SUZUKI.

1 A note verbale from the Japanese Foreign  
2 Ministry to the Swiss Legation, dated 5 July 1945,  
3 acknowledged receipt of a communication dated 30  
4 May 1945 and stated that a reply would be made after  
5 an immediate investigation. This note is not  
6 available in processed form at the present moment,  
7 but is available for examination if desired.

8 May the witness Sergeant Douglas William  
9 Bogue, United States Marine Corps, be called to the  
10 witness stand?

11 - - -

12 D O U G L A S W I L L I A M B O G U E, called as  
13 a witness on behalf of the prosecution, having  
14 first been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY CAPTAIN ROBINSON:

17 Q State your name, rank and present station.

18 A Douglas William Bogue, Gunnery Sergeant,  
19 United States Marine Corps, now serving with F  
20 Company, Second Battalion, First Marines, First Marine  
21 Division, at Tientsin, China.

22 Q What is your age and your permanent home  
23 address?

24 A I am twenty-eight. I live at 2907 Estara  
25 Avenue, Los Angeles, California.



BOGUE

DIRECT

1 Q How long have you been in the United States  
2 Marine Corps?

3 A Approximately eleven years.

4 Q Were you a prisoner of the Japanese?

5 A Yes.

6 Q During what -- when and where were you  
7 captured?

8 A I was captured on Corregidor May 6, 1942,  
9 at the surrender of the Philippines.

10 Q And when and where were you liberated?

11 A I escaped at Puerto Princesa, Palawan, in  
12 the Philippine Islands on the 14th December 1944.  
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1 Q During what periods and at what places were  
2 you held a prisoner of the Japanese?

3 A I was first taken prisoner 6 May 1942 on  
4 Corregidor, where I remained until approximately the  
5 29th of May 1942, when I was taken to Manila from  
6 29 May 1942 until approximately the 2d or 3d of June  
7 1942. That includes a period en route from Corregidor  
8 to Manila; my few days in Manila before being trans-  
9 ferred to Cabanatuan. I arrived at Cabanatuan on  
10 approximately the 5th of June, where we detrained; was  
11 taken to Camp No. 3 just outside of Cabanatuan about  
12 twenty kilometers, where I remained until approximately  
13 the end of July 1942, and was then sent to Puerto  
14 Princesa, Palawan. I arrived on the island of Palawan  
15 at Puerto Princesa approximately the 5th of August  
16 1942. I remained at Puerto Princesa, Palawan, until  
17 14 December 1944, on which date I escaped.

18 Q Were you wounded at any time prior to  
19 14 December 1944?

20 A Not in combat.

21 Q Did you have occasion to observe the provi-  
22 sions for prisoners of war with respect to medical  
23 facilities as provided by the Japanese?

24 A Yes, I had a very good chance for direct  
25 observation.



BOGUE

DIRECT

1 Q At what places?

2 A At Corregidor, Cabanatuan, and Palawan.

3 Q Will you describe the situation at Corregidor?

4 A Troops that were wounded in combat on Cor-  
5 regidor after -- during and after the occupation of  
6 the Japanese were very fortunate if they received any  
7 medical treatment. By that I mean that those that were  
8 fortunate were those that were wounded during the  
9 actual fighting and were taken into the hospital.  
10 Those who were not taken into the hospital but were just  
11 gathered in aid stations or their wounds were not of  
12 a serious enough nature to be taken into the hospital,  
13 like small shrapnel wounds or bullet wounds in the arm  
14 or in the leg, these men were rounded up along with  
15 the other prisoners and confined in the 92d Garage  
16 Area.

17 That was on Corregidor. The only aid that  
18 these men received was from the corps men or the medics  
19 who had their first aid packets with them, and some of  
20 the doctors who were in outlying aid stations with these  
21 meager supplies were able to render whatever aid they  
22 possibly could.

23 As to my knowledge, no Japanese supplies or  
24 American supplies confiscated by the Japanese were  
25 given these doctors to help the American wounded

BOGUE

DIRECT

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22 possibly could.

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24 American supplies confiscated by the Japanese were  
25 given these doctors to help the American wounded



BOGUE

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prisoners of war there.

1 Most of these men's wounds continued to get  
2 worse. Some, just through the men's own resistance,  
3 got better. And upon about two days after the surrender  
4 on Corregidor, I myself became too weak to do much  
5 because I was overtaken by dysentery. And a Dr. Wade,  
6 who was a medical doctor of the United States Navy,  
7 he had an aid station set up in what was left of the  
8 92d Garage. So I went to see Dr. Wade, and he told me  
9 that the only way I could receive any medical attention  
10 was to help carry some of the wounded, more seriously  
11 wounded, up to the hospital where they were allowing  
12 some of them to be admitted. By so doing, when I got  
13 up to the hospital I mentioned my condition to a United  
14 States Army doctor there who told me that he would give  
15 me an examination and see just how bad my condition was.  
16 Upon finding I had amoebic dysentery, I was turned in  
17 to the hospital where they told me that no Japanese  
18 troops were allowed to come in except those inspecting  
19 the hospital itself, and that no supplies other than  
20 those on hand were available.

21  
22 While in this hospital, I seen the conditions  
23 of wounded men. They were fairly well taken care of  
24 there because of American medical supplies that they  
25 had on hand. But the hospital itself was overcrowded,

BOGUE

DIRECT

1 very poor ventilation as it was in a tunnel, and the  
2 men -- there was a considerable high death rate. The  
3 food that was distributed there for the sick and wounded  
4 was of a very meager nature for -- since the Japanese  
5 had taken over the island.

6 Q Do you know of American requests being made  
7 to Japanese authorities for better medical facilities  
8 at that place and time?

9 A Prior to going to the hospital, Dr. Wade told  
10 me that he had made continual requests to the  
11 Japanese for medicines to stop the increase of dysentery  
12 and that he had received no response.

13 Q Passing to Cabanatuan, would you describe pro-  
14 visions there in the way of medical facilities for  
15 prisoners of war?

16 A When we arrived at Bilibid Prison in Manila --  
17 it had been used as a prisoner of war camp since Manila  
18 was occupied by the Japanese, and they had somewhat of  
19 a hospital or hospital area there. One of the build-  
20 ings was used as a hospital there at Bilibid. I had  
21 no chance to see this hospital in operation because I  
22 was only there a couple days and we were rushed by train  
23 from Manila to Cabanatuan. But some of these men that  
24 were transferred with me to Cabanatuan were in such  
25 a weak condition from re-attacks of malaria and



BOGUE

DIRECT

1 dysentery and due to the jammed quarters of these  
2 box cars and the fact that we weren't fed for twenty-  
3 four hours upon our arrival at Cabanatuan, when we  
4 were detained there were two or three men who had  
5 died en route. I did not see these men's bodies  
6 removed from the box cars. I presume they was left  
7 right in there.

8 We were taken to a stockade by a school  
9 house in Cabanatuan where we were given a meager  
10 meal of dirty rice, no soup, and were left to lay  
11 on this stockade with no shelter overnight in an  
12 intense rain. The next morning we were formed on  
13 a road and marched twenty kilometers to Camp No. 3  
14 outside of Cabanatuan which had been a Philippine  
15 constabulary training camp.

16 There were two men who were with me. One  
17 man, a Corporal Wood of the Marine Corps, had received  
18 a shell fragment in his left shoulder and up to that  
19 time had received no medical attention, which caused  
20 the wound to abscess and become very inflamed; and,  
21 with this shoulder, he was still forced to make this  
22 twenty-kilometer hike to Camp No. 3.

23 Q At Palawan, Sergeant, what provisions were  
24 made for the American prisoners of war with respect  
25 to medical facilities?

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BOGUE

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1       A   The only medical supplies the Japanese  
2       furnished while at Palawan was quinine and some  
3       lotions for the feet due to the fact that very few  
4       shoes were available and the men's feet were con-  
5       stantly breaking out with ulcers and sores; and as  
6       malaria was quite common there, quinine was furnished,  
7       and when asked why the Japanese were furnishing the  
8       quinine, the interpreter said that "We must get this  
9       work done so we must keep you prisoners well."

10       Q   Was there a Japanese hospital there?

11       A   One of the buildings had been taken over  
12       by the Japanese and made into a hospital with a large  
13       red cross painted on the top; but this was solely  
14       used for and by the Japanese.

15       Q   What hospital facilities were provided for  
16       the American prisoners of war?

17       A   There was a small room right at the entrance  
18       to the compound which was designated as the sick bay  
19       and dispensary.

20       Q   With regard to doctors, were Japanese doctors  
21       provided or American doctors?

22       A   Upon our arrival at Palawan we had two  
23       American doctors, a Dr. Hickman and a Dr. Mango.  
24       As Dr. Hickman was transferred from Palawan in September,  
25       1944, Dr. Mango remained.



BOGUE

DIRECT

1 Q Did he provide medical attention for the  
2 American prisoners of war?

3 A The two American doctors were the only --  
4 besides two or three medics, also American, were  
5 the only source of medical attention available for  
6 the Americans.

7 Q What was the work in which you were engaged  
8 at Palawan?

9 A Our work at Palawan was to build a military  
10 airstrip.

11 Q Of what did that work consist?

12 A It consisted of clearing out the area on  
13 this Puerto Princesa peninsula there in intense  
14 jungle with no tools other than picks, shovels,  
15 mattocks, and a few trucks -- no other machinery  
16 or mechanized equipment. Our work would begin early  
17 in the morning until late in the evening. The  
18 jungle was -- well it was very dangerous to work  
19 in this jungle due to the fact that malaria was  
20 prevalent and we had no clothes -- did not have the  
21 proper clothes, food or shoes to protect us. The work  
22 was also very dangerous due to the fact that there  
23 was considerable number of trees on this area which  
24 had to be cut down; and there was several times when  
25 there was -- it was just by sheer luck that nobody

BOGUE

DIRECT

1 was crushed to death from these falling trees.

2           Gradually, as we got the jungle cleared  
3 out, we were forced to work in the open in a blazing  
4 hot sun from the morning -- from the time we went  
5 to work in the morning until the time we quit at  
6 night. Some days it all -- it would all depend on  
7 which commander was in charge, we would be allowed  
8 a five-minute break every hour, other times a fifteen-  
9 minute break, once in the morning and once in the  
10 afternoon. If at any other time a man tried to  
11 raise up for a few minutes rest, he was severely  
12 beaten by the Japanese guards.

13           We also received approximately one canteen  
14 of water for one day. The food consisted of approx-  
15 imately half a level American mess kit of rice with  
16 some watery -- salt watery green soup. After we  
17 had the field somewhat ready for planes, we were  
18 then -- we then started construction on defense  
19 measures for the field which consisted of building  
20 the revetments for the planes, dugouts and gun  
21 positions for the troops.

22           Q   When did the bombing attacks begin at  
23 Palawan?

24           A   On October 19, 1944.

25           Q   Were prisoners assigned to work in connection



BOGUE

DIRECT

1 with those attacks?

2 A I don't quite understand that question.

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BOGUE

DIRECT

1 Q The prisoner Stedham -- was there a priso-  
2 ner there named Stedham?

3 A Yes, sir.

4 Q Was he injured in the course of work assigned  
5 to him at Palawan?

6 A Yes, he was. Our work did not stop due  
7 to the American air raids at this point. We con-  
8 tinued to work on the air field during the actual  
9 air raids and the interval between. It was during  
10 one of these raids when we were caught out on the  
11 air strip that Stedham was injured. He received  
12 a hit in the back of the head from either a bomb  
13 fragment or a rock, which caused a large gash across  
14 the base of his skull, completely paralyzing his  
15 body. He was brought into the compound, where  
16 Doctor Mango and a Japanese doctor looked over his  
17 wounds.

18 The Japanese doctor told Doctor Mango that  
19 he must do what he can, as the Japanese medical  
20 supplies were very meager and they were very sorry  
21 that they was unable to help; so Doctor Mango made  
22 his own tools outside of a pair of forceps and a  
23 scalpel, and by opening the wound, Stedham's wound,  
24 and probing a little bit every day he was gradually  
25



BOGUE

DIRECT

1 getting feeling back to Stedham's body. During  
2 these treatments by Doctor Mango, on Stedham no  
3 anesthetic was used.

4 Previously a Corporal McDole, of the United  
5 States Marine Corps, was stricken with appendicitis.  
6 After it was quite apparent to the Japanese doctor,  
7 who would check McDole every day to see if he was  
8 getting better or worse, that it was an acute attack  
9 of appendicitis, he told Doctor Mango that he must  
10 operate. Doctor Mango was very glad to hear this.  
11 They also permitted McDole to be taken to Iwahig,  
12 to be assisted by a Filipino doctor who was there,  
13 but when the actual operation was about to be per-  
14 formed Doctor Mango discovered he must operate with  
15 one small light, which the electricity was furnished  
16 by a very small motor, one scalpel, and a few for-  
17 ceeps that had not been used in quite sometime, and  
18 no anesthetic. Even with these handicaps Doctor  
19 Mango, after talking it over with McDole, agreed  
20 to proceed with the operation. The operation took  
21 approximately three and a half hours, and after the  
22 operation, that is, after the appendix had been  
23 removed, Doctor Mango was forced to use abaca fibre  
24 to sew up the incision. A few days later after this  
25 operation McDole was again returned to the compound

BOGUE

DIRECT

1 at Puerto Princesa. Doctor Mango performed three  
2 of these operations successfully.

3 Q With respect to disciplinary action, what  
4 did you observe on the part of the Japanese  
5 authorities?

6 A While at Camp No. 3 in Cabanatuan there  
7 was four American prisoners of war picked up on the  
8 road leading to Camp No. 3 by some Japanese guards  
9 in a truck. They were brought out on the road to  
10 Camp No. 3 and immediately tied so that -- with a  
11 pole passing under their knees and their arms inter-  
12 locking it, so that they could neither sit nor lie  
13 down but could only remain in a squatted position.  
14 These men were told that they were being punished  
15 for trying to escape. As to whether they were try-  
16 ing to escape or not, I don't know their intentions.  
17 Whenever one of these men fell over from the squat-  
18 ting position, the Jap guard watching them would  
19 continually beat him until he managed to crawl back  
20 up on to his feet.

21 The American officers tried to find out  
22 from the Japanese camp commander exactly how long  
23 this torture must continue or what they intended to  
24 do with these four men. The Japanese commander  
25 replied that he had contacted Manila for further



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1 orders as to their disposition. After two days of  
2 this torture they were marched out just behind the  
3 main camp area, visible to almost all men in the  
4 camp, where four very shallow graves had been dug.  
5 They were forced to stand in the ends of these graves,  
6 and shot. They were then covered up and the graves  
7 were left unmarked.

8 On Palawan four men had been caught supposed-  
9 ly talking to the natives and for having several  
10 cans of corned beef in their possession that the  
11 Japanese claimed had been stolen from the store room.  
12 These men were thrown into a cell and they were left  
13 without food or water for two days. Then, without  
14 trial, they were forced to hug a coconut tree, and  
15 while so doing, a Japanese would stand behind with  
16 with a wire whip approximately three feet long and  
17 severely lash him with all his strength across the  
18 center of the back. This lashing continued until  
19 the Japanese could swing no more. Another Japanese  
20 then stepped up with a pole approximately six feet  
21 in length and maybe two to three inches in diameter  
22 and severely beat the men across the buttocks until  
23 they too could swing no more.

24 THE PRESIDENT: Beat what men across the  
25

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1 buttocks until they too could swing no more?

2 THE WITNESS: These four men that had been  
3 accused of talking to the ~~F~~ilippinos and stealing  
4 corned beef from the Japanese store room.

5 BY CAPTAIN ROBINSON (Continued):

6 Q Who were these men?

7 A They were four of the American prisoners  
8 of war there.

9 Q You witnessed the beating, did you?

10 A I did.

11 THE PRESIDENT: We will adjourn now until  
12 half-past nine tomorrow morning.

13 (Whereupon, at 1600 an adjournment was  
14 taken until Wednesday, 15 January 1947, at 0930.)  
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